

Extra Ordinary Part - IV / 1999

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Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by
the Governor on the 8th March, 1999 is hereby published for general information.

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 1 OF 1999.

(First published, after having received the assent of the Governor in the
Gujarat Government Gazette, on the 9th March, 1999).

AN ACT

further to amend the laws relating to statutory bodies and to validate
termination of tenure of certain offices of such bodies.

It is hereby enacted in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Statutory Bodies Laws (Amend- Short title.
ment and Validation) Act, 1999.

2. In this Act, unless the context otherwise requires,—

Definitions.

(i) "laws relating to statutory bodies" means enactments specified in
column 2 of the Schedule;

(ii) "relevant provision" means the provision relating to tenure of office of a Chairman, Vice-Chairman and directors or, as the case may be, members, of a statutory body, in each of laws relating to statutory bodies, as amended by section 3;

(iii) "statutory body" means the Authority, Board or Corporation constituted under an enactment specified in column 2 of the Schedule.

Amendment of laws relating to statutory bodies.

3. Each of the enactments specified in column 2 of the Schedule shall be amended to the extent and in the manner specified against it in column 3 of the said Schedule.

Validation of termination of tenure of office of Chairman, Vice-Chairman and directors or members of statutory bodies.

4. The tenure of office of a Chairman, Vice-Chairman and directors or, as the case may be, members, of a statutory body, terminated immediately before the commencement of this Act shall be and shall be deemed always to have been validly terminated in accordance with law, as if the relevant provision had been included in and formed part of the laws relating to statutory bodies and had been in force at all material times when the tenure of office of Chairman, Vice-Chairman and directors or, as the case may be, members, of a statutory body was terminated and accordingly no suit or other proceeding questioning the validity of such termination shall be maintained or continued in any court.

Chairman, Vice-Chairman, director and member of statutory bodies to hold office during pleasure of State Government.

5. A Chairman, Vice-Chairman and director or, as the case may be, member, who is appointed or nominated as such by the State Government in a statutory body before the commencement of this Act and who continues to hold such office on such commencement shall be and shall be deemed always to have been appointed or nominated to hold such office during the pleasure of the State Government, notwithstanding anything contrary contained in the law relating to statutory bodies or any rules, regulations or orders made thereunder.

SCHEDULE
(See section 3)

No. 1	Name of enactments. 2	Extent of amendments. 3
1.	The Bombay Labour Welfare Fund Act, 1953 (Bom. XL of 1953).	<p>In section 4, for sub-section (3), the following sub-section shall be substituted, namely :—</p> <p>"(3) The members of the Board shall hold office during the pleasure of the State Government."</p> <p>(2) In section 6, in sub-section (2), the words "and a member so nominated shall hold office for the unexpired portion of the term of the office of his predecessor" shall be deleted.</p>
2.	The Gandhidham (Development and Control on Erection of Buildings) Act, 1958 (Bom. XIX of 1958).	<p>In section 3, for sub-section (4), the following sub-section shall be and shall be deemed always to have been substituted, namely :—</p> <p>"(4) (a) The Chairman, Secretary and the members other than <i>ex-officio</i> members, of the Authority nominated by the State Government shall hold office during the pleasure of the State Government;</p> <p>(b) The members nominated by the Central Government under clause (d) of sub-section (2) shall hold office during the pleasure of the Central Government."</p>
3.	The Bombay Khadi and Village Industries Act, 1960 (Bom. XIX of 1960).	<p>In section 4, in sub-section (1), for the words "hold office for such period as the State Government may, by general or special order, direct", the words "hold office during the pleasure of the State Government" shall be and shall be deemed always to have been substituted.</p>
4.	The Gujarat Housing Board Act, 1961 (Guj. XXVIII of 1961).	<p>In section 8, for sub-section (1), the following sub-section shall be substituted, namely :—</p> <p>"(1) The Chairman and the members shall hold office during the pleasure of the State Government."</p>
5.	The Gujarat Industrial Development Act, 1962 (Guj. XXIII of 1962).	<p>In section 6, for sub-section (1), the following sub-section shall be and shall be deemed always to have been substituted, namely :—</p> <p>"(1) (a) The Chairman, Vice-Chairman and Directors of the Corporation nominated by the State Government shall hold office during the pleasure of the State Government;</p>

No.	Name of enactments.	Extent of amendments.
1	2	3
6.	The Gujarat Medical Practitioners' Act, 1963 (Guj. VI of 1964).	(b) The director nominated under clauses (b) and (c) of sub-section (1) of section 4 shall hold office during the pleasure of respective Board." In section 5, in sub-section (3),— (1) in clause (a), for the words "the term of office of a member of the Board, whether elected or nominated," the words "subject to the provision of clause (b), the term of office of a member of the Board" shall be substituted; (2) after clause (a), the following clause shall be inserted, namely :— "(b) the members nominated under clause (a) of sub-section (2) of section 3 shall hold office during the pleasure of the State Government."
7.	The Gujarat Tribal Development Corporation Act, 1972 (Guj. 5 of 1972).	(1) In section 7, in sub-section (3), the words "and a director nominated to fill such vacancy shall hold office for the unexpired portion of the term of his predecessor" shall be deleted. (2) For section 8, the following section shall be substituted, namely :— Term of office. "8. The directors shall hold office during the pleasure of the State Government." (3) In section 11, in sub-section (1), for the words and figure "Notwithstanding anything contained in section 8, the State Government", the words "The State Government" shall be substituted."
8.	The Gujarat Rural Housing Board Act, 1972 (Guj. 22 of 1972).	In section 8, for sub-section (1), the following sub-section shall be substituted, namely :— "(1) The Chairman and the members shall hold office during the pleasure of the State Government."
9.	The Gujarat Slum Areas (Improvement, Clearance and Redevelopment) Act, 1973 (Guj. 11 of 1973).	For section 23, the following section shall be and shall be deemed always to have been substituted, namely :—

No. 1	Name of enactments. 2	Extent of amendments. 3
	Terms of office and conditions of service of Chairman and members.	<p>"23. (1) The Chairman and other members of the Board shall hold office during the pleasure of the State Government.</p> <p>(2) The conditions of the service of the Chairman and the members of the Board shall be such as may be prescribed."</p>
10.	The Gujarat Secondary Education Act, 1972 (Guj. 18 of 1973).	(1) For section 5, the following section shall be substituted, namely:—
	Term of office and conditions of service of Chairman, Deputy Chairman and nominated members.	<p>"5. (1) The Chairman, Deputy Chairman and nominated members shall hold office during the pleasure of the State Government.</p> <p>(2) The salaries or, as the case may be, honorarium, allowances and other conditions of service of the Chairman and the Deputy Chairman shall be such as may be determined by the State Government."</p> <p>(2) In section 6, in sub-section (1), for the words "ex-officio members", the words "ex-officio members and nominated members" shall be substituted.</p>
11.	The Gujarat Town Planning and Urban Development Act, 1976 (President's Act No. 27 of 1976).	<p>In section 5,—</p> <p>(1) in sub-section (5), for the words "The Term of office and conditions of service", the words "The conditions of service" shall be and shall be deemed always to have been substituted;</p> <p>(2) after sub-section (5), the following sub-section shall be and shall be deemed always to have been inserted, namely:—</p> <p>"(5A) The Chairman and the members of an Area Development Authority other than ex-officio members shall hold office during the pleasure of the State Government."</p> <p>(3) in sub-section (7), for the portion beginning with the words "as the case may be," and ending with the words "vacancy had not occurred", the words "as the case may be," shall be and shall be deemed always to have been substituted.</p>

No. 1	Name of enactments. 2	Extent of amendments. 3
12.	The Gujarat Municipal Finance Board Act, 1979 (Guj. 12 of 1979).	<p>(1) In section 6, for sub-section (1), the following sub-section shall be and shall be deemed always to have been substituted, namely:—</p> <p>"(1) The Chairman and the members other than those appointed by virtue of their office shall hold office during the pleasure of the State Government."</p> <p>(2) In section 8, for the portion beginning with the words "as early as practicable" and ending with the words "had not occurred", the words "as early as practicable" shall be and shall be deemed always to have been substituted.</p> <p>(3) In section 28, in sub-section (2), for clause (a), the following clause shall be and shall be deemed always to have been substituted, namely:—</p> <p>"(a) the honorarium, sitting fees and allowances of the Chairman and sitting fees and allowances including compensatory allowance of the members under sub-section (3) of section 6;"</p>
13.	The Gujarat Water Supply and Sewerage Board Act, 1978 (Guj. 18 of 1979).	<p>In section 6, for sub-sections (1) to (4), the following sub-section shall be substituted, namely:—</p> <p>"(1) The Chairman, Member-Secretary and the members other than <i>ex-officio</i> members shall hold office during the pleasure of the State Government : Provided that a person appointed as member under clause (f) of sub-section (1) of section 4 shall cease to be a member, if he ceases to be the elected head of the local body concerned."</p>
14.	The Gujarat Unprotected Manual Workers (Regulation of Employment and Welfare) Act, 1979 (Guj. 25 of 1979).	<p>(1) In section 6, for sub-section (7), the following sub-section shall be substituted, namely:—</p> <p>"(7) The Chairman and the members shall hold office during the pleasure of the State Government."</p> <p>(2) In section 12, for the portion beginning with the words "the vacancy shall be filled" and ending with the words "vacancy had not occurred :", the words "the vacancy shall be filled not later than ninety days from the date of receipt of such communication:" shall be substituted.</p>

No. 1	Name of enactments. 2	Extent of amendments. 3
15.	The Gujarat Maritime Board Act, 1981 (Guj. 30 of 1981).	<p>(1) In section 5, in sub-section (2), the portion beginning with the words "and in any case" and ending with the words "State Government" shall be deleted.</p> <p>(2) In section 8,—</p> <p>(a) to sub-section (2), the proviso shall be deleted.</p> <p>(b) sub-section (4) shall be deleted.</p>
16.	The Gujarat Scheduled Castes Development Corporation Act, 1985 (Guj. 10 of 1985).	<p>(1) In section 6, for sub-sections (1) and (2), the following sub-section shall be and shall be deemed always to have been substituted, namely:—</p> <p>"(1) The director shall hold office during the pleasure of the State Government :".</p> <p>(2) In section 7, the words "and a person nominated as director to fill up such vacancy shall hold office for the unexpired portion of the term of his predecessor" shall be and shall be deemed always to have been deleted.</p> <p>(3) In section 10, in sub-section (1), for the words and figure "Notwithstanding anything contained in section 6, the State Government", the words "The State Government" shall be and shall be deemed always to have been substituted.</p>
17.	The Gujarat Backward Classes Development Corporation Act, 1985 (Guj. 11 of 1985).	<p>(1) In section 7, for sub-sections (1) and (2), the following sub-section shall be and shall be deemed always to have been substituted, namely:—</p> <p>"(1) The director shall hold office during the pleasure of the State Government."</p> <p>(2) In section 8, the words "and a person nominated as director to fill up such vacancy shall hold office for the unexpired portion of the term of his predecessor" shall be and shall be deemed always to have been deleted.</p> <p>(3) In section 11, in sub-section (1), for the words and figure "Notwithstanding anything contained in section 7, the State Government", the words "The State Government" shall be and shall be deemed always to have been substituted.</p>



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PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 8th March, 1999 is hereby published for general information.

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 2 OF 1999.

(First published, after having received the assent of the Governor in the Gujarat Government Gazette, on the 9th March, 1999).

AN ACT

further to amend the Gujarat Town Planning and Urban Development Act, 1976.

It is hereby enacted in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Town Planning and Urban Development (Amendment) Act, 1999.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

President's
Act No. 27
of 1976.

2. (1) In the Gujarat Town Planning and Urban Development Act, 1976 (hereinafter referred to as "the principal Act"), in section 2,—

(i) in clause (iv), after the words and figure "under section 5", the words, brackets and figure "and includes a local authority, designated as such under sub-section (1) of section 6 or Government company designated as such under section 6A" shall be inserted.

(ii) after clause (xxix), the following clause shall be added, namely:—

1 of 1956.

"(xxx) 'Government company' means a Government company registered under the Companies Act, 1956 which has one of its objects the development of an area;"

Short title
and
commence-
ment.

Amendment
of section 2 of
President's
Act No. 27 of
1976.

Amendment
of section 5 of
President's
Act No. 27 of
1976.

3. In the principal Act, in section 5, in sub-section (3), for clause (iii), the following clauses shall be substituted, namely:—

"(iii) such persons not exceeding four from amongst the members of the local authorities functioning in the development area as may be nominated by the State Government;

(iii-a) the Presidents of the district panchayats functioning in the development area or in any part thereof, *ex-officio*;"

Amendment
of section 6 of
President's
Act No. 27 of
1976.

4. In the principal Act, in section 6,—

(1) in sub-section (2), after clause (ii), the following clauses shall be inserted, namely:—

(iii) "One official of the State Government to be nominated by the State Government, *ex-officio*;

(iv) Chief Officer or, as the case may be, Secretary of the local authority."

(2) in sub-section (3), after the words "Standing Committee", the words "or, as the case may be, Executive Committee" shall be inserted.

Insertion of
new section
6A in
President's
Act No. 27 of
1976.

5. In the principal Act, after section 6, the following section shall be inserted, namely:—

Power to
designate
Government
company as
an Area
Development
Authority.

"6A. The State Government may, instead of constituting an area development authority for a development area, designate the Government company as the area development authority for any development area."

Amendment
of section 7 of
President's
Act No. 27 of
1976.

6. In the principal Act, in section 7, in sub-section (1), in clause (ii), after the words "the preparation", the words "and execution" shall be inserted.

Amendment
of section 17
of President's
Act No. 27 of
1976.

7. In the principal Act, in section 17,—

(1) in sub-section (1), in clause (d), for the word, brackets and letter "clause (b)", the words, brackets and letters "clause (a), clause (b)" shall be substituted;

(2) in sub-section (2), for the word, brackets and letter "clause (n)", the words, brackets and letters "clause (n) or clause (o)" shall be substituted.

Amendment
of section 20
of President's
Act No. 27 of
1976.

8. In the principal Act, in section 20, in sub-section (1), for the words, brackets and letters "clause (k) or clause (n)", the words, brackets and letters "clause (f), clause (k), clause (n) or clause (o)" shall be substituted.

9. In the principal Act, in section 22,—

(1) in sub-section (1), the words "and not by any other authority" occurring at the end shall be deleted.

(2) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The State Government may, by notification in the *Official Gazette*, include in or exclude any area from an urban development area, amalgamate two or more urban development areas into one urban development area, sub-divide any urban development area into different urban development areas and include such sub-divided urban development area in any other urban development area."

(3) in sub-section (4),—

(a) in clause (ii), for the words "two in number", the words "four in number" shall be substituted;

(b) in clause (iii), for the words "two officials", the words "three officials" shall be substituted;

(c) after clause (vi), the following clause shall be inserted, namely:—

"(vi-a) the Municipal Commissioner of the Municipal Corporation, if any, functioning in the urban development area, *ex-officio*;"

Amendment
of section 22
of President's
Act No. 27 of
1976.

10. In the principal Act, in section 23, in sub-section (1), in clause (ii), after the words "the preparation", the words "and execution" shall be inserted.

Amendment
of section 23
of President's
Act No. 27 of
1976.

11. In the principal Act, after section 23, the following section shall be inserted, namely:—

Insertion of
new section
23-A in
President's
Act No. 27 of
1976.

Entrustment
of powers and
functions to
Government
company.

"23-A The State Government may, by notification, in the *Official Gazette*, entrust to the Government company, all or any of the powers and functions of the appropriate authority."

12. In the principal Act, in section 40, in sub-section (3), for clause (jj), the following shall be substituted, namely :—

Amendment
of section 40
of President's
Act No. 27 of
1976.

"(jj) (a) the allotment of land from the total area covered under the scheme, to the extent of,—

(i) fifteen per cent. for roads,

(ii) five per cent. for parks, play grounds, gardens and open space,

(iii) five per cent. for social infrastructure such as schools, dispensary, fire brigade, public utility place as earmarked in the Draft Town Planning Scheme, and

(iv) fifteen per cent. for sale by appropriate authority for residential, commercial or industrial use depending upon the nature of development.

provided that the percentage of the allotment of land specified in paragraphs (i) to (iii) may be altered depending upon the nature of development and for the reasons to be recorded in writing ;

(b) the proceeds from the sale of land referred to in para (iv) of sub-clause (a) shall be used for the purpose of providing infrastructural facilities.

(c) the land allotted for the purposes referred to in paragraphs (ii) and (iii) of sub-clause (a) shall not be changed by variation of schemes for the purpose other than public purpose.

Amendment
of section 42
of President's
Act No. 27 of
1976.

13. In the principal Act, in section 42, in sub-section (1),—

(a) for the words "twelve months", the words "nine months" shall be substituted;

(b) in the proviso, for the words "six months", the words "three months" shall be substituted.

Amendment
of section 48
of President's
Act No. 27 of
1976.

14. In the principal Act, in section 48,—

(1) in sub-section (1), for the words "four months", the words "three months" shall be substituted;

(2) in sub-section (2), for the words "six months", the words "three months" shall be substituted.

Insertion of
new section
48-A in
President's
Act No. 27 of
1976.

15. In the principal Act, after section 48, the following section shall be inserted, namely:—

Vesting of
land in
appropriate
authority.

"48-A. (1) Where a draft scheme has been sanctioned by the State Government under sub-section (2) of section 48, (hereinafter in this section, referred to as 'the sanctioned draft scheme'), all lands required by the appropriate authority for the purposes specified in clause (c), (f), (g) or (h) of sub-section (3) of section 40 shall vest absolutely in the appropriate authority free from all encumbrances.

(2) Nothing in sub-section (1) shall affect any right of the owner of the land vesting in the appropriate authority under that sub-section.

(3) The provisions of section 68 and 69 shall *mutatis mutandis* apply to the sanctioned draft scheme as if,—

(i) sanctioned draft scheme were a preliminary scheme, and

(ii) in sub-section (1), for the words "comes into force", the words, brackets and figures "the date on which the draft scheme is sanctioned under sub-section (2) of section 48" were substituted.

Amendment
of section 50
of President's
Act No. 27 of
1976.

16. In the principal Act, in section 50, after sub-section (1), the following proviso shall be added, namely:—

"Provided that the State Government may, on the request made by the Appropriate Authority, appoint a Town Planning Officer within one month from the date of the publication of the Draft Scheme under sub-section (1) of section 42."

17. In the principal Act, in section 51, for the proviso, the following proviso shall be substituted, namely:—

Amendment
of section 51
of President's
Act No. 27 of
1976.

"Provided that the State Government may, by order in writing, extend the said period by such further period not exceeding nine months in aggregate and any such order extending the period may be made so as to have retrospective effect :

Provided further that the State Government may, by order and for reasons to be recorded in writing, extend such further period not exceeding six months."

Appeal.

18. In the principal Act, for section 54, the following shall be substituted, namely :—

Substitution
of section 54
of President's
Act No. 27 of
1976.

"54. (1) Any decision of the Town Planning Officer under clause (iii), (iv), (vi), (vii), (viii) and (x) of sub-section (3) of section 52 shall forth with be communicated to the party concerned in the prescribed form and any party aggrieved by such decision may within one month from the date of communication of decision, present an appeal to the Board of Appeal constituted under section 55.

Guj. 2 of
1999.

(2) (a) A Board of Appeal existing immediately before the commencement of the Gujarat Town Planning and Urban Development (Amendment) Act, 1999 shall continue to hear and decide appeal until the date on which the Board of Appeal is constituted (hereinafter referred to as "the said date"), by the State Government under section 55, and

(b) all appeals pending on the said date before any Board of Appeal shall stand transferred to the Board of Appeal so constituted.

19. In the principal Act, in section 55, for sub-section (1), the following shall be substituted, namely:—

Amendment
of section 55
of President's
Act No. 27 of
1976.

"(1) (a) The State Government shall, from time to time by an order published in the *Official Gazette*, constitute a Board of Appeal for hearing and deciding appeals under section 54.

(b) The Board of Appeal shall consist of three Members, one of whom shall be its President and two persons, possessing such qualifications and experience as may be prescribed, as assessor.

♦ (c) The President shall be a person who is or has been a District Judge or a Judge of the City Civil Court, Ahmedabad.

(d) The terms of appointment of the President of the Board of Appeal and conditions of service shall be such as may be prescribed.

20. In the principal Act, after section 70, the following section shall be inserted, namely:—

Insertion of
new section
70A in
President's
Act No. 27 of
1976.

Variation
of Town
Planning
Scheme
for land
allotted
for
public
purpose.

"70 A. If at any time after the final town planning scheme comes into force, the appropriate authority is of the opinion that the purpose for which any land is allotted in such scheme under any of the paragraphs (ii) and (iii) of sub-clause (a) of clause (jj) of sub-section (3) of section 40 requires to be changed to any other purpose specified in any of the said paragraphs, the appropriate authority may make such change after following the procedure relating to amendment of regulations, specified in section 72 as if such change were an amendment of regulations."

Amendment of
section 117 of
President's
Act No. 27 of
1976.

21. In the principal Act, in section 117, clause (a) shall be deleted.

Amendment
of section 118
of President's
Act No. 27 of
1976.

22. In the principal Act, in section 118, in sub-section (2), in clause (xxx), for the words "the qualifications ", the words "the terms of appointment and conditions of service of President; and the qualifications" shall be substituted.



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KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 3 OF 1999.

(First published, after having received the assent of the Governor in the Gujarat Government Gazette, on the 9th March, 1999.)

AN ACT

further to amend the Bombay Provincial Municipal Corporations Act, 1949.

It is hereby enacted in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Bombay Provincial Municipal Corporations (Gujarat Amendment) Act, 1999.

Short
title and
commence-
ment.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Bom.
LIX of
1949.

2. In the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter referred to as "the principal Act"), in section 2,—

Amend-
ment of
section 2
of Bom.
LIX of
1949.

(1) after clause (6), the following clause shall be inserted, namely:—

"(6A) "carpet area" means the floor area of a building excluding the area over which a wall whether outer or inner is erected;"

(2) after clause (7), the following clause shall be inserted, namely:—

(7A) "chawl" means a building consisting of two or more tenements whether having common sanitary and other facilities or not and declared as such by the Commissioner by notification in the *Official Gazette*;

Amendment of section 19A of Bom. LIX of 1949.

3. In the principal Act, in section 19A, in sub-section (2), the words, letters and figures "not exceeding Rs. 3000/-" shall be deleted.

Amendment of section 127 of Bom. LIX of 1949.

4. In the principal Act, in section 127, in sub-section (1), for clause (a), the following clause shall be substituted, namely :—

"(a) property taxes either under section 129 or property tax under section 141B;"

Insertion of heading and sections 141B to 144F in Bom. LIX of 1949.

5. In the principal Act, after section 141A, the following heading and sections shall be inserted, namely :—

"PROPERTY TAX

Property tax at what rate leviable.

141B. (1) For the purposes of sub-section (1) of section 127, property tax shall, subject to such exceptions, limitations and conditions hereinafter provided, be levied annually on buildings and lands in the City at such rate per square metre of the carpet area of buildings and of the area of lands (hereinafter referred to as "the rate of tax") as the Corporation may determine.

(2) For the purpose of levy of tax on buildings in the City under sub-section (1),—

(a) the buildings may be classified into residential buildings and buildings other than residential; and

(b) the Corporation may determine one rate of tax for residential buildings and the other rate of tax for buildings other than residential :

Provided that it shall be lawful for the Corporation to determine for residential buildings, the carpet area of which does not exceed forty square metres, such rate of tax as is lower than the rate of tax determined for residential buildings generally under this sub-section.

(3) The rate of tax determined under sub-section (1) read with sub-section (2) shall not —

(a) in respect of residential buildings, be less than ten rupees per square metre of carpet area and more than forty rupees per square metre of carpet area, and

(b) in respect of buildings other than residential, be not less than twenty rupees per square metre of carpet area and more than eighty rupees per square metre of carpet area.

(4) The Corporation may, subject to rules, increase or decrease or neither increase nor decrease the rate of tax determined under sub-section (1) read with sub-sections (2) and (3),—

(a) in the case of residential buildings, having regard to the following factors, namely :—

(i) the market value of the land in the area of the City in which the buildings are situate,

(ii) the length of the time of the existence of the buildings.

(iii) the type of the buildings, and

(iv) whether the buildings are occupied by owners or tenants,

(b) in the case of buildings other than residential, having regard to the following factors, namely :—

(i) the market value of the land in the area of the City in which the buildings are situate,

(ii) the length of the time of the existence of the buildings,

(iii) the purpose for which the buildings are used, and

(iv) whether the buildings are occupied by owners or tenants.

(5) In-lieu of the property tax leviable under sub-section (1) read with sub-sections (2) and (3), there shall be levied annually on, —

(a) residential huts, and

(b) residential tenements in a *chawl*, each such tenement having carpet area not exceeding twenty-five square metres,

such amount of tax as the Corporation may determine :

Provided that the amount so determined shall not be less than such amount as the State Government may, by notification in the *Official Gazette*, specify.

Explanation.— For the purpose of levy of tax under this section, where an addition is made to an existing building whereby the carpet area of that building is increased, such addition shall be treated as a separate building and the length of the time of its existence shall be computed from the year in which the addition is made.

Property tax on what buildings and lands to be levied.

141C. The property tax shall be levied in respect of all buildings and lands in the City except the buildings and lands vesting in the Government and used solely for the public purpose and not used or intended to be used for purpose of trade or profit, or vesting in the Corporation, in respect of which the said tax, if levied, would under the provisions hereinafter contained be primarily leviable from the Government or the Corporation, respectively.

Payments to be made to Corporation in lieu of property tax.

141D. The State Government shall pay to the Corporation annually by the 31st day of March in every year in lieu of property tax from which buildings and lands vesting in the State Government are exempted by section 141C, eight-tenths of the amount of tax which would be payable by an ordinary owner on account of property tax if such buildings and lands had vested in him.

Rebate in certain cases.

141E. (1) There shall be given a rebate of fifteen per cent. of the amount of property tax leviable on buildings,—

(a) to which private water supply is not furnished from, or which are not connected by means of communication pipes with, any municipal water works, or

(b) which are not situate in any portion of the City in which the Commissioner has given public notice that the Corporation has arranged to supply water from municipal water works by means of private water connections or public stand posts, fountains or by any other means.

(2) There shall be given a rebate of twenty per cent. of the amount of property tax leviable in respect of a cellar or any floor other than a ground floor, of a building other than residential.

Application of certain sections to levy of property tax.

141F. The provisions of sections 138, 139, 140, 141 and 141A shall apply in relation to property tax levied under section 141B subject to modifications specified in Appendix I-A."

Amendment of section 454 of Bom. LIX of 1949.

6. In the principal Act, section 454, except the proviso, shall be renumbered as sub-section (1) of that section, and

(a) after sub-section (1) as so re-numbered, the following sub-section shall be added, namely :—

"(2) The Corporation may make rules either prospectively or retrospectively for the purposes of levy of property tax under section 141B :

Provided that while making any rules under this sub-section, no provision for breach thereof under section 468, shall be made retrospectively";

(b) in the proviso, for the words "Provided that", the words "Provided further that" shall be substituted."

Insertion of Appendix I-A in Bom. LIX of 1949.

7. In the principal Act, after Chapter XXXI, the following Appendix shall be inserted, namely :—

"APPENDIX I-A

(See section 141F)

Modifications

1. In section 138,—

(1) in sub-section (1), for the words "any water tax or conservancy tax", the words "any property tax" shall be substituted;

(2) in the marginal note, for the words "Water tax or conservancy tax", the words "Property tax" shall be substituted.

2. In section 139,—

(1) in sub-section (1), for the words "property taxes" occurring at two places, the words "property tax" shall be substituted;

(2) in sub-section (2), for the words "property taxes" occurring at two places, the words "property tax" shall be substituted;

(3) in the marginal note, for the words "property taxes", the words "property tax" shall be substituted.

3. In section 140,—

(1) in sub-section (1),—

(a) for the words "any property tax", the words "property tax" shall be substituted;

(b) for the portion beginning with the words "which the rent paid by such occupier" and ending with the words "of the said premises", the following shall be substituted, namely :—

"as the carpet area of the premises occupied by such occupier bears to the aggregate carpet area of the said premises occupied by both or all of them.";

(2) in sub-section (3), for the words "a property tax", the words "property tax" shall be substituted.

(3) in the marginal note, for the words "property taxes", the words "property tax" shall be substituted.

4. In section 141,—

(1) in sub-section (1),—

(a) for the words "property taxes", the words "property tax" shall be substituted;

(b) the *Explanation* shall be deleted;

(2) in the marginal note, for the words "property taxes", the words "property tax" shall be substituted.

5. In section 141A, for the proviso to sub-section (1), the following proviso shall be substituted, namely :—

"Provided that where the property tax for any official year in respect of,—

(a) a residential hut, or

(b) a residential tenement, in a *chawl*, having carpet area not exceeding twenty five square metres, is not paid before the end of the official year to which such tax relates but is paid thereafter, the interest shall be leviable for the period commencing on the date immediately after the expiry of the official year and ending on the date of the payment of the property tax."



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PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to
by the Governor on the 12th March, 1999 is hereby published for general
information.

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 4 OF 1999.

(First published, after having received the assent of the Governor in the
Gujarat Government Gazette on the 16th March, 1999).

AN ACT

to authorise payment and appropriation of certain further sums from and
out of the Consolidated Fund of the State of Gujarat for the services of the
financial year ending on the thirty-first day of March, 1999.

It is hereby enacted in the Fiftieth Year of the Republic of India as
follows :—

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 1999. Short title.
2. From and out of the Consolidated Fund of the State of Gujarat, there
shall be paid and applied sums not exceeding those specified in column 3 of
the Schedule hereto annexed amounting in the aggregate to the sum of two
thousand nine hundred forty-six crores, forty-six lakhs, eighty-seven
thousand rupees towards defraying the several charges which will come in
course of payment during the financial year ending on the thirty-first day of
March, 1999, in respect of the services and purposes specified in column 2 of
the Schedule. Issue of
Rs. 29,46,46,87,000
from and out of
the Consolidated
Fund of the State
of Gujarat for the
financial year
1998-99.

3. The sums authorised to be paid and applied from and out of the
Consolidated Fund of the State of Gujarat by this Act shall be appropriated for
the services and purposes expressed in the Schedule in relation to the said
year. Appropriation.

SCHEDULE

(See sections 2 and 3)

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
1	Agriculture and Cooperation Department	Revenue 1,37,000	—	1,37,000
2	Agriculture	Revenue 28,77,90,000	—	28,77,90,000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue 29,35,000 Capital 27,90,000	— —	29,35,000 27,90,000
4	Animal husbandry and Dairy Development	Revenue 4,62,45,000 Capital 10,95,86,000	— —	4,62,45,000 10,95,86,000
5	Cooperation	Revenue 1,26,89,000 Capital 2,66,98,000	— —	1,26,89,000 2,66,98,000
8	Education	Revenue 720,99,84,000	5,48,00,000	726,47,84,000
9	Other expenditure pertaining to Education Department	Revenue 58,67,000 Capital 17,74,00,000	— —	58,67,000 17,74,00,000
10	Energy and Petro- Chemicals Department	Revenue 12,00,000	—	12,00,000
12	Energy Projects	Revenue 964,78,93,000	—	964,78,93,000
14	Finance Department	Revenue 45,06,000	—	45,06,000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
15	Tax Collection Charges (Finance Department)	Revenue	1,13,95,000	—	1,13,95,000
16	Treasury and Accounts Administration	Revenue	1,000	—	1,000
17	Pension and other Retirement Benefits	Revenue	414,68,00,000	—	414,68,00,000
18	Other expenditure pertaining to Finance Department	Capital	6,77,12,000	—	6,77,12,000
19	Repayment of debt pertaining to Finance Department and its servicing	Revenue	—	39,35,97,000	39,35,97,000
		Capital	—	14,11,82,000	14,11,82,000
20	Food, Civil Supplies and Consumer Affairs Department	Revenue	45,78,000	—	45,78,000
21	Civil Supplies	Revenue	1,000	—	1,000
22	Food	Revenue	54,91,000	—	54,91,000
23	Other expenditure pertaining to Food, Civil Supplies and Consumer Affairs Department	Capital	2,00,000	—	2,00,000
24	Forest and Environment Department	Revenue	9,40,000	—	9,40,000
25	Forest	Revenue	2,38,00,000	92,28,000	3,30,28,000
		Capital	1,70,88,000	—	1,70,88,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
28	Governor	Revenue —	54,60,000	54,60,000
29	Council of Ministers	Revenue 14,00,000	—	14,00,000
30	Elections	Revenue 4,97,83,000	—	4,97,83,000
31	Public Service Commission	Revenue —	32,50,000	32,50,000
32	General Administration Department	Revenue 6,46,87,000	—	6,46,87,000
34	Other expenditure pertaining to General Administration Department	Revenue 35,76,000 Capital 95,30,000	— —	35,76,000 95,30,000
35	State Legislature	Revenue 20,13,000	—	20,13,000
38	Medical and Public Health	Revenue 47,41,45,000	1,000	47,41,46,000
39	Family Welfare	Revenue 7,17,00,000	—	7,17,00,000
41	Home Department	Revenue 37,64,000	—	37,64,000
42	Police	Revenue 36,70,37,000	10,98,000	36,81,35,000
44	Transport	Revenue 6,46,76,000	—	6,46,76,000
46	Other expenditure pertaining to Home Department	Revenue 1,000 Capital 90,71,000	10,98,000 —	10,99,000 90,71,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
47	Industries and Mines Department	Revenue 22,12,000	—	22,12,000
48	Stationery and Printing	Revenue 2,83,85,000	—	2,83,85,000
49	Industries	Revenue 1,19,08,000 Capital 25,00,000	— —	1,19,08,000 25,00,000
51	Other expenditure pertaining to Industries and Mines Department	Revenue 1,21,000	—	1,21,000
52	Information, Broadcasting and Tourism Department (Now information and Broadcasting Department)	Revenue 4,02,000	—	4,02,000
53	Information and Publicity	Revenue 79,25,000	—	79,25,000
54	Tourism	Revenue 22,31,000	—	22,31,000
55	Other expenditure pertaining to Information and Broadcasting Department	Revenue 52,43,000	—	52,43,000
56	Labour and Employment Department	Revenue 8,00,000	—	8,00,000
57	Labour and Employment	Revenue 6,96,62,000	—	6,96,62,000
58	Other expenditure pertaining to Labour and Employment Department	Capital 10,00,000	—	10,00,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
59	Legal Department. Revenue	29,17,000	—	29,17,000
60	Administration of Justice Revenue	—	1,33,49,000	1,33,49,000
61	Other expenditure pertaining to Legal Department Capital	15,00,000	—	15,00,000
62	Legislative and Parliamentary Affairs Department Revenue	1,000	—	1,000
63	Other expenditure pertaining to Legislative and Parliamentary Affairs Department Capital	75,000	—	75,000
64	Narmada, Water Resources and Water Supply Department Revenue	94,70,000	—	94,70,000
65	Narmada Development Scheme Capital	75,00,02,000	—	75,00,02,000
66	Irrigation and Soil Conservation Revenue	28,10,78,000	19,81,000	28,30,59,000
	Capital	123,31,48,000	2,33,12,000	125,64,60,000
67	Water Supply Capital	1,000	—	1,000
68	Other expenditure pertaining to Narmada, Water Resources and Water Supply Department Revenue	—	4,74,30,000	4,74,30,000
69	Panchayats, Rural Housing and Rural Development Department Revenue	48,65,000	—	48,65,000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
70	Community Development	Revenue	98,40,20,000	—	98,40,20,000
71	Rural Housing and Rural Development	Revenue	2,41,81,000	27,88,000	2,69,69,000
72	Compensations and Assignments	Revenue	77,76,000	—	77,76,000
73	Other expenditure pertaining to Pachayats, Rural Housing and Rural Development Department	Revenue	16,37,41,000	—	16,37,41,000
		Capital	1,34,54,000	—	1,34,54,000
74	Fisheries	Revenue	68,04,000	—	68,04,000
75	Other expenditure pertaining to Ports and Fisheries Department	Revenue	7,51,000	—	7,51,000
76	Revenue Department	Revenue	34,20,000	—	34,20,000
77	Tax Collection Charges (Revenue Department)	Revenue	3,71,39,000	—	3,71,39,000
78	District Administration	Revenue	4,17,89,000	—	4,17,89,000
79	Relief on Account of Natural Calamities	Revenue	2,000	—	2,000
80	Dang District	Revenue	15,84,000	—	15,84,000
81	Compensation and Assignments	Revenue	4,94,11,000	—	4,94,11,000
83	Roads and Buildings Department.	Revenue	20,45,000	—	20,45,000
84	Non-Residential Buildings	Revenue	1,60,68,000	4,00,000	1,64,68,000
		Capital	2,000	—	2,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
85.	Residential Buildings	Revenue 1,43,98,000	—	1,43,98,000
86	Roads and Bridges	Revenue 70,13,03,000	17,50,000	70,30,53,000
		Capital 25,10,77,000	68,35,000	25,79,12,000
87	Gujarat Capital Construction Scheme	Capital 1,000	—	1,000
88	Other expenditure pertaining to Roads and Buildings Department	Revenue —	1,51,61,000	1,51,61,000
90	Social Security and Welfare	Revenue 28,73,77,000	3,15,000	28,76,92,000
91	Welfare of Scheduled Tribes	Revenue 2,15,94,000	—	2,15,94,000
93	Special Component Plan for Scheduled Castes.	Revenue 1,18,72,000	—	1,18,72,000
94	Tribal Area Sub Plan	Revenue 5,81,92,000	6,86,000	5,88,78,000
		Capital 3,000	5,48,000	5,51,000
96	Urban Housing	Revenue —	1,79,11,000	1,79,11,000
		Capital 34,55,00,000	—	34,55,00,000
97	Urban Development	Revenue 11,94,48,000	—	11,94,48,000
98	Compensations, Assignments and Tax Collection Charges	Revenue 20,90,00,000	—	20,90,00,000
Total :		Revenue 2570,41,69,000	57,03,03,000	2627,44,72,000
		Capital 301,83,38,000	17,18,77,000	319,02,15,000
Grand Total :		2872,25,07,000	74,21,80,000	2946,46,87,000



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PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 26th March, 1999 is hereby published for general information.

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 5 OF 1999.

(First published, after having received the assent of the Governor in the *Gujarat Government Gazette* on the 30th March, 1999).

AN ACT

further to amend the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976.

It is hereby enacted in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 1999.

Short title and commencement.

(2) It shall come into force on the 1st April, 1999.

President's Act No. 11 of 1976.

2. In the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976, in Schedule I, for the entry at Sr. No. 4 and the Explanations and Exemptions thereunder, the following entry shall be substituted, namely:—

Amendment of Schedule I to President's Act No. 11 of 1976.

1	2	3
*4.	Firms registered under the Indian Partnership Act, 1932 which are engaged in any professions, trades or callings.	Rs. 1000 every year."

IX of 1932.



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PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by
the Governor on the 26th March, 1999 is hereby published for general information.

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 6 OF 1999.

(First published, after having received the assent of the Governor in the
Gujarat Government Gazette on the 30th March, 1999).

AN ACT

further to amend the Bombay Motor Vehicles Tax Act, 1958.

It is hereby enacted in the Fiftieth Year of the Republic of India as
follows :-

1. (1) This Act may be called the Bombay Motor Vehicles Tax (Gujarat
Amendment) Act, 1999.

(2) It shall come into force on the 1st April, 1999.

Bom. LXV
of 1958.

2. In the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as
"the principal Act"), in section 3,-

Short
title and
commence-
ment

Amend-
ment of
section 3 of
Bom.
LXV of
1958.

(1) in sub-section (1), for the words "Fourth and Fifth", the words "Fourth, Fifth, Sixth and Seventh" shall be substituted;

(2) in the proviso, after the words "Fourth Schedule", the words "or Sixth Schedule" shall be inserted.

Amendment of
section 4 of
Bom. LXV of
1958.

3. In the principal Act, in section 4, in sub-section (1AB), for the words "Fourth Schedule or Fifth Schedule", the words "Fourth Schedule, Fifth Schedule, Sixth Schedule or Seventh Schedule" shall be substituted.

Amendment of
section 9 of
Bom. LXV of
1958.

4. In the principal Act, in section 9, after sub-section (4), the following sub-section shall be inserted, namely :-

"(4A) Where a person is entitled to a refund of tax under sub-section (1), (2), (3) or (4) and,

(a) the amount of such refund exceeds the amount of tax, penalty or interest or the aggregate of any of them which is due from such person in respect of any other period at the time of payment of the amount of refund to him, there shall be paid to him by the Taxation Authority either the whole amount of refund or at his option the balance of the amount of refund remaining after deduction therefrom the amount of such tax, penalty or interest or the aggregate of any of them;

(b) the amount of such refund is less than the amount of tax, penalty or interest or the aggregate of any of them which is due from such person in respect of any other period at the time of payment of the amount of refund to him, there shall be paid to him by the Taxation Authority the whole amount of refund or at his option the whole amount of refund shall be appropriated by the Taxation Authority towards payment of the amount of such tax, penalty or interest or the aggregate of any of them and the balance shall be recoverable from him."

Amendment of
section 11 of
Bom. LXV of
1958.

5. In the principal Act, in section 11, in sub-section (2), in clause (c), for the words "Sixth Schedule", the words "Eighth Schedule" shall be substituted.

Amendment of
section 25 of
Bom. LXV of
1958.

6. In the principal Act, in section 25, for the words "Seventh Schedule", the words "Ninth Schedule" shall be substituted.

Amendment of
First Schedule to
Bom. LXV of
1958.

7. In the principal Act, in the First Schedule, in Part-I, for clause (IV), the following clause shall be substituted, namely:-

"IV. Motor vehicles (including tricycles) plying for hire and used for the carriage of passengers,

(a) Vehicles licensed to carry more than six passengers

Rs. 1100 plus Rs. 100 for every passenger in addition to six passengers which the vehicle is so licensed to carry :

Provided that where a tax on motor vehicles is levied by any local authority the maximum annual rates of tax under this clause for motor vehicles registered for use solely within the limits of such local authority shall,—

(i) in cases where such motor vehicles are wholly or partially exempted by such local authority from the tax levied by such local authority, be the rates specified in this clause;

(ii) in any other case, be two-thirds of the rates so specified.

(b) Vehicles registered in any other State before or on or after the 1st April, 1999 and brought for use in the State for a temporary period,

(i) Vehicles licensed to carry in
all not more than three passengers 400

(ii) Vehicles licensed
to carry in all
four passengers. 900

(iii) Vehicles licensed
to carry more than
four passengers
but not more than
six passengers. The rate specified in (ii) above
plus Rs. 100 for every
passenger in addition to four
passengers which the vehicle
is licensed to carry."

Amend-
ment of
Sixth
Schedule
to Bom.
LXV of
1958.

8. In the principal Act, the existing SIXTH SCHEDULE shall be renum-
bered as EIGHTH SCHEDULE.

Amend-
ment of
Sixth
Schedule to
Bom.
LXV of
1958.

Amend-
ment of
Seventh
Schedule
to Bom.
LXV of
1958.

9. In the principal Act, the existing SEVENTH SCHEDULE shall be renum-
bered as NINTH SCHEDULE.

Amend-
ment of
Seventh
Schedule to
Bom. LXV of
1958.

Insertion
of new
Schedules
in Bom.
LXV of
1958.

10. In the principal Act, after the Fifth Schedule, the following Schedules
shall be inserted, namely :—

Insertion of new
Schedules in
Bom.
LXV of 1958.

"SIXTH SCHEDULE**(See section 3).**

Motor vehicles registered in the State of Gujarat on or after the 1st April, 1999 and plying for hire and used for the carriage of passengers.

Part I.	<i>Motor Vehicles using motor spirit, compressed natural gas or operated by electric battery or solar energy.</i>	<i>Maximum rate of lump sum tax</i> Rs.
A. (a)	Two wheelers vehicles licensed to carry not more than two passengers.	4000
	(b) Three wheelers vehicles ordinarily known as autorickshaw,—	
	(i) licensed to carry not more than three passengers	4000
	(ii) licensed to carry four passengers	12000
	(iii) licensed to carry five passengers	14000
	(iv) licensed to carry six passengers	15000
	(c) Four wheelers vehicles licensed to carry not more than six passengers	Eight per cent. of the cost of vehicle.
B.	Motor vehicles falling under clause A and manufactured out of India and imported into India after the 31 st March 1999.	Twice the rates specified in clause A.
Part II.	<i>Motor vehicles using fuel other than motor spirit, compressed natural gas or operated by electric battery or solar energy.</i>	The rates specified in part I plus a surcharge of fifty per cent.

Explanation I.—For the purposes of calculating the rate of lump sum tax under this Schedule if the invoice of the vehicle, or as the case may be, the Bill of Entry is not produced for any reason, then, the cost of vehicle shall be calculated as follows, namely:—

- (1) (i) In case of model of such vehicle is being manufactured, the cost of vehicle certified by a local dealer or manufacturer of such vehicle;
- (ii) In case the manufacture of such model is ceased, the prevailing market price of such vehicle certified by the licensed assessor or valuer of motor vehicles.

- (2) If the cost of vehicle could not be calculated as per clause (1), the prevailing cost of similar vehicle determined by the Taxation Authority, closest in engine capacity and unladen weight of the vehicle in respect of which a tax is to be levied and collected.

Explanation II.—In calculating the cost of vehicle, if the cost of the vehicle is not in multiple of hundred, the fraction of a hundred not exceeding fifty rupees shall be ignored and the fraction of hundred exceeding fifty rupees shall be taken as hundred rupees.

SEVENTH SCHEDULE

(See section 3)

Motor vehicles specified in the Sixth Schedule registered in the State of Gujarat before the 1st April, 1999 and the motor vehicles registered in any other State and brought for use or keeping for use in the State of Gujarat on or after the 1st April, 1999.

If the age of vehicle from the month of registration is—

Rate of lump sum tax

1. not more than 2 years

95% of the tax.

2. more than 2 years but not more than 3 years

90% of the tax.

3. more than 3 years but not more than 4 years

85% of the tax.

4. more than 4 years but not more than 5 years

80% of the tax.

5. more than 5 years but not more than 6 years

75% of the tax.

6. more than 6 years but not more than 7 years

70% of the tax.

7. more than 7 years but not more than 8 years

65% of the tax.

8. more than 8 years but not more than 9 years

60% of the tax.

9. more than 9 years but not more than 10 years

55% of the tax.

10. more than 10 years but not more than 11 years

50% of the tax.

11. more than 11 years but not more than 12 years

45% of the tax.

12. more than 12 years but not more than 13 years

40% of the tax.

13. more than 13 years but not more than 14 years

35% of the tax.

14. more than 14 years

30% of the tax.

Explanation.—For the purposes of this Schedule, the expression 'tax' means the tax leviable under the Sixth Schedule.

IV-EX. 6-2.



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PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

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KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 7 OF 1999.

(First published, after having received the assent of the Governor in the Gujarat Government Gazette on the 30th March, 1999).

AN ACT

further to amend the Bombay Stamp Act, 1958.

It is hereby enacted in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Bombay Stamp (Gujarat Amendment) Act, 1999.

Short title and commencement.

(2) It shall come into force on the 1st April, 1999.

Bom. LX of 1958.

2. In the Bombay Stamp Act, 1958 (hereinafter referred to as "the principal Act"), in section 2, in clause (k), after sub-clause (ii), the following clause shall be inserted, namely:—

Amendment of section 2 of Bom. LX of 1958.

" (iii) impression by franking machine ;".

3. In the principal Act, in section 10, after sub-section (2), the following sub-sections shall be inserted, namely:—

Amendment of section 10 of Bom. LX of 1958.

" (2A) The Chief Controlling Revenue Authority may authorise, subject to such conditions as it may deem fit, the use of franking machine for making impressions on instruments chargeable with duties, to indicate payment of duties on such instruments ;

(2B) (i) Where the Chief Controlling Revenue Authority or Superintendent of Stamps authorised by him in this behalf, is, having regard to the number of instruments executed by a person and the amount of duty charged thereon, satisfied that it is necessary in the public interest, so to do, it or he may by an order in writing, authorise such person to use franking machine subject to such conditions as laid by general or special order in this behalf by the Chief Controlling Revenue Authority.

(ii) Where there is breach of any of conditions of the authorisation, the authority granting authorisation under clause (i) may revoke the authorisation.

(iii) The Chief Controlling Revenue Authority may, by order, determine the procedure for regulating the use of franking machine."

Amendment
of section 53
of Bom. LX of
1958.

4. In the principal Act, in section 53, to sub-section (1), the following provisos shall be added, namely:—

"Provided that the Chief Controlling Revenue Authority shall not entertain an application made by a person under sub-section (1), unless,—

(a) such application is presented within a period of sixty days from the date of order of the Collector;

(b) such person deposits twenty-five per cent. of the amount of duty or as the case may be amount of difference of duty payable by him in respect of subject matter of the instrument for which application has been made.

Provided further that where in any particular case the Chief Controlling Revenue Authority is of the opinion that the deposit of the amount by the applicant may cause undue hardship to him, the authority may in its discretion, either unconditionally or subject to such conditions as it may think fit to impose, dispense with a part of the amount deposited so however that the part of the amount so dispensed with shall not exceed fifty per cent. of the amount deposited or required to be deposited."

Amendment
of Schedule I
to Bom. LX of
1958.

5. In the principal Act, in Schedule I, in article 6, in clause (2), in item (ii), in column II, for the words "one rupee", the words "twenty paise" shall be substituted.



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by the Governor on the 26th March, 1999 is hereby published for general
information.

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 8 OF 1999.

(First published, after having received the assent of the Governor in the
Gujarat Government Gazette on the 30th March, 1999).

AN ACT

further to amend the Bombay Electricity Duty Act, 1958.

It is hereby enacted in the Fiftieth Year of the Republic of India as
follows:—

1. (1) This Act may be called the Bombay Electricity Duty (Gujarat
Amendment) Act, 1999. Short title
and
commence-
ment.

(2) It shall come into force on the 1st April, 1999.

Bom. XL
of 1958.

LIV of
1948.

LIV of
1948.

2. In the Bombay Electricity Duty Act, 1958 (hereinafter referred to as
"the principal Act"), in section 2, in clause (c), for the words, figures and
brackets "supplying energy and the State Electricity Board constituted under
section 5 of the Electricity (Supply) Act, 1948", the words, figures, letter and
brackets "supplying energy, the generating company as defined in sub-section
(4A) of section 2 of the Electricity (Supply) Act, 1948 and the State Electricity
Board constituted under section 5 of that Act of 1948" shall be substituted. Amendment
of section 2.
Bom. XL of
1958.

3. In the principal Act, in section 3,—

(1) in sub-section (1), for the brackets, figure and letters "(2AA)", the
brackets, figures and letters "(2AA), (2AAA)" shall be substituted; Amendment
of section 3.
Bom. XL of
1958.

(2) in sub-section (2), in clause (vii), for sub-clause (a), the
following shall be substituted, namely:—

"(a) in the case of an industrial undertaking which generates energy for
its own use, five years from the 1st April, 1999, the date of com-

commencement of the Bombay Electricity Duty (Gujarat Amendment) Act, 1999 or the date of starting the generation of such energy, whichever is later;"

(3) sub-section (2A) shall be deleted;

(4) after sub-section (2AA), the following sub-section shall be added, namely :—

"(2AAA) (a) Nothing contained in this Act as amended by the Bombay Electricity Duty (Gujarat Amendment) Act, 1999 (hereinafter referred to as "the Amending Act of 1999") shall affect any exemption granted to an existing industrial undertaking before the 1st April, 1999 and such exemption shall continue for the period provided in sub-clause (a) of clause (vii) of sub-section (2) or, as the case may be, sub-section (2A), as if the Amending Act of 1999 was not passed. Guj. 8 of 1999.

(b) Notwithstanding anything contained in sub-clause (a) of clause (vii) of sub-section (2) or sub-section (2A), as amended by the Amending Act of 1999, any existing industrial undertaking which was eligible for exemption under the provisions of sub-clause (a) of clause (vii) of sub-section (2) or sub-section (2A) before 1st April, 1999 but which did not avail of such exemption before that date shall be eligible for such exemption under the said sub-clause (a) of clause (vii) or the said sub-section (2A), as if the Amending Act of 1999 was not passed.

(c) Notwithstanding anything contained in sub-clause (a) of clause (vii) of sub-section (2) as amended by the Amending Act of 1999, where any undertaking has started generation of energy for its own use before the 1st April, 1999 but has not commenced manufacture or production of goods before that date, such undertaking shall be eligible for exemption under the said sub-clause (a) of clause (vii) of sub-section (2), as if the Amending Act of 1999 was not passed.

Explanation.— For the purpose of this sub-section, an existing industrial undertaking means an industrial undertaking which exists on the 1st April, 1999 and which manufactures or produces goods but does not include an undertaking which manufactures or produces any kind of food and drinks meant ordinarily for consumption on the premises of the undertaking."

Amendment
of section 4
of Bom. XL
of 1958.

4. In the principal Act, in section 4, after sub-section (3), the following sub-section shall be inserted, namely :—

"(3A) The State Government or an officer authorised by the State Government in this behalf, may, in respect of any consumer,—

(a) extend the date of payment or allow him to pay electricity duty by instalments in such manner and on such conditions as may be prescribed,

(b) allow deferment of payment of electricity duty under such circumstances, on such conditions and for such period not exceeding five years in aggregate, as may be prescribed."

Amendment
of section 9
of Bom. XL
of 1958.

5. In the principal Act, in section 9, for the words "fifty rupees", the words "one thousand rupees" shall be substituted.

Amendment
of section 12
of Bom. XL
of 1958.

6. In the principal Act, in section 12, in sub-section (2), for clause (a), the following clause shall be substituted, namely :—

"(a) prescribe the time and manner of payment of electricity duty, the manner and conditions for extending the date of payment of electricity duty and payment of electricity duty by instalments; the circumstances in which and conditions subject to which and the period for which deferment of payment of electricity duty may be allowed under section 4;"

7. In the principal Act, in Schedule I, in Part I, below item (7), in *Explanation I*, in the proviso, after clause (b), the following clause shall be added, namely:—

Amendment of Schedule I to Bom.XL of 1958.

"(c) where a licensee who has installed the generating set for his own use supplies surplus electrical energy to any other industrial undertaking (hereinafter referred to as "the receiving undertaking"), the charges payable by any other consumer for such quantum of power to the licensee who is engaged in the business of supplying energy within the area where the receiving undertaking is located shall be deemed to be 'consumption charges' for such supply of energy."

8. In the principal Act, in Schedule II, in part I,—

Amendment of Schedule II to Bom.XL of 1958.

- (1) in item 5, in sub-item (a), in column 2, for the figures and words "10 paise per unit", the figures and words "40 paise per unit" shall be substituted;
- (2) in item 6, in column 2, for the figure and words "3 paise per unit", the figures and words "20 paise per unit" shall be substituted;
- (3) in item 7, in column 2, for the figures and words "35 paise per unit", the figures and words "70 paise per unit" shall be substituted.



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KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 9 OF 1999.

(First published, after having received the assent of the Governor in the
Gujarat Government Gazette on the 30th March, 1999).

AN ACT

further to amend the Gujarat Sales Tax Act, 1969.

It is hereby enacted in the Fiftieth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Sales Tax (Amendment) Act, 1999.

Short title and
commence-
ment.

(2) It shall come into force on the 1st April, 1999.

Guj. 1
of 1970.

2. In the Gujarat Sales Tax Act, 1969 (hereinafter referred to as "the principal
Act"), in section 2,—

Amendment of
section 2 of Guj.
1 of 1970.

(1) for clause (21), the following clause shall be substituted, namely :—

“(21) “prohibited goods” means the goods described in entries 4, 5, 17, 19,
20, 21, 25, 27, 32, 35, 36, 37, 38, 40, 44, 45, 46 and 54, in Schedule II, Part A or in
entries 1 and 7 in Schedule II, Part B and such other goods as the State Government
may, from time to time, by notification in the *Official Gazette*, specify;”;

(2) in clause (25), after the word and figures "section 29", the word and figures "or 30" shall be inserted;

(3) in clause (28), the existing *Explanation* shall be re-numbered as *Explanation I* and after the *Explanation I* as so re-numbered, the following *Explanation* shall be added, namely :—

"*Explanation II*—For the purposes of sub-clause (c) of this clause, the expression "works contract" means a contract for execution of works and includes such works contract as the State Government may, by notification in the *Official Gazette*, specify;"

Amendment of section 3A of Guj. 1 of 1970.

3. In the principal Act, in section 3A, in sub-section (1), in clause (b), for the letters and figures "Rs. 5,000", the letters and figures "Rs. 50,000" shall be substituted.

Amendment of section 13 of Guj. 1 of 1970.

4. In the principal Act, in section 13, in clause (B), for the words "prohibited goods", the words "goods which are liable to tax at the rate of two paise in the rupee or less than that rate of two paise or the prohibited goods" shall be inserted.

Amendment of section 15B of Guj. 1 of 1970.

5. In the principal Act, in section 15B, in clause (b), for the words "six paise", the words "four paise" shall be substituted.

Insertion of new section 30 in Guj. 1 of 1970.

6. In the principal Act, after section 29, the following section shall be inserted, namely:—

Voluntary registration of dealers.

"30. (1) A dealer having a fixed or regular place of business in the State and who is not required to be registered under section 29, may apply in the prescribed manner for the certificate of registration to the authority prescribed for the purpose under section 29.

(2) If the prescribed authority is satisfied that the application made by the dealer under sub-section (1) is in order, it may grant him a certificate of registration in the prescribed form :

Provided that no certificate of registration under this section shall be granted to the dealer unless he deposits an amount of twenty-five thousand rupees in the Government Treasury for being adjusted against tax, penalty and interest, if any, payable by the dealer according to the returns furnished by him in the year in which the amount is deposited and in the year immediately succeeding :

Provided further that if after the expiry of two years from the date of registration, there is a balance left after adjusting the amount of tax, penalty and interest, if any, against the amount of deposit, the balance shall be refunded to the dealer under the provisions of section 52.

(3) The provisions of sub-section (4) and clause (a) of sub-section (7) of section 29 shall apply in respect of the amendment or cancellation of the certificate of registration granted under this section.

(4) Notwithstanding anything contained in this Act, every dealer who has been registered under sub-section (2) shall, so long as his registration remains in force, be liable to pay the tax under this Act."

7. In the principal Act, in section 30B, in sub-section (1), for the words, figures and letter "section 29 or 30A", the words, figures and letter "section-29, 30 or 30A" shall be substituted.

Amendment of section 30B of Guj. 1 of 1970.

8. In the principal Act, in section 59, —

Amendment of section 59 of Guj. 1 of 1970

(1) after sub-section (5), the following sub-section shall be inserted, namely :—

"(5A) Where—

(a) a carrier or bailee or any person to whom goods were delivered for transport has kept the said goods in any vehicle, vessel or place; and

(b) the Commissioner has reason to believe that tax on such goods is or is likely to be evaded,

the Commissioner may stop the vehicle or the vessel carrying such goods and enter and search the vehicle, vessel or place and inspect the goods and records relating to such goods and elicit such information from the carrier, bailee or any person as is relevant."

(2) in sub-section 6,—

V of
1898.
2 of
1974.

(i) for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted;

(ii) for the words, brackets and figure "sub-section (5)", the words, brackets, figures and letter "sub-sections (5) and (5A)" shall be substituted.

9. In the principal Act, after section 59AA, the following section shall be inserted, namely:—

Insertion of new section 59AAA in Guj. 1 of 1970.

Power
to
declare
specified
goods.

"59AAA. (1) Where the State Government is of opinion that tax is or is likely to be evaded on sales or purchases of goods which take place in the State subsequent to their import from other State and that with a view to preventing such evasion, it is necessary so to do, it may by notification in the *Official Gazette*, specify such goods (hereinafter referred to as "the specified goods").

(2) A registered dealer who intends to import specified goods from any other State for sale, use, consumption or any other disposal in the State, shall make a declaration in such form as may be prescribed and shall cause it to be carried with the specified goods, alongwith the documents to be carried under sub-section (3) of section 59A.

(3) On receipt of specified goods imported from other State, the registered dealer shall furnish a Statement in such form, to such authority and within such time, as may be prescribed.

Amendment of
section 75 of
Guj. 1 of 1970.

10. In the principal Act, in section 75,—

(1) in sub-section (1),—

(a) in clause (c), after the word and figures "section 29", the word and figures "or 30" shall be inserted;

(b) in clause (j), for the words, figures and letter "section 59 or section 59B", the words, figures and letters "section 59 or section 59A or section 59B" shall be substituted;

(c) the following proviso shall be added at the end, namely:—

"Provided that in absence of special and adequate reasons to the contrary to be mentioned in the judgement of the Court, such imprisonment shall not be less than three months and such fine shall not be less than rupees ten thousand."

Amendment of
Schedule I to
Guj. 1 of 1970.

11. In the principal Act, in Schedule I,—

(1) for the entry at serial No. 4, the following entry shall be substituted, namely:—

1	2	3
"4.	Bamboo, whether whole or split and articles made of bamboo	—";

(2) after the entry at serial No. 11, the following entry shall be inserted, namely:—

1	2	3
"11A	Buckets, drums and trunks of G.P. sheets or C. R. Sheets	—";

(3) after the entry at serial No. 16, the following entry shall be inserted, namely:—

1	2	3
"16A	(i) Chalk lumps	—
	(ii) Ground chalks, i.e. chalk in powder form	—";

(4) after the entry at serial No. 18, the following entry shall be inserted, namely:—

1	2	3
"18A	Chicory tubers or chicory roots whether cut or dried or processed	—";

(5) for the entry at serial No. 20, the following entry shall be substituted, namely:—

1	2	3
"20 (i)	Chillies, tamarind and turmeric (whole)	—
(ii)	Chillies, tamarind and turmeric in powder form	Except when sold in sealed package under a brand.";

(6) after the entry at serial No. 34, the following entry shall be inserted, namely:—

1	2	3
"34A	Fishing nets	—";

(7) in the entry at serial No. 49, in column 2, the words "when sold at a price not exceeding rupees fifty per kilogram" shall be deleted ;

(8) after the entry at serial No. 62, the following entry shall be inserted, namely :—

1	2	3
"62A	Mosquito repellents in any form including its equipment and devices	—";

(9) after the entry at serial No. 73, the following entry shall be inserted, namely:—

1	2	3
"73A	Printing blocks meant for use by printing press	—";

(10) after the entry at serial No. 74, the following entry shall be inserted, namely:—

1	2	3
"74AA	Radio (one or two bands)	—";

(11) the entry at serial No. 77 shall be deleted;

(12) after the entry at serial No. 80, the following entry shall be inserted, namely:—

1	2	3
"80A	Screen printing blocks meant for use in printing fabrics	—";

(13) after the entry at serial No. 82A, the following entry shall be inserted, namely:—

1	2	3
"82AA	Software	—";

(14) after the entry at serial No. 87, the following entry shall be inserted, namely:—

1	2	3
"87A	Timru leaves	—";

(15) after the entry at serial No. 92, the following entry shall be inserted, namely:—

1	2	3
"92A	Varat and vartadi	—";

(16) after the entry at serial No. 94, the following entry shall be inserted, namely:—

1	2	3
"94A	Winding wall clocks and winding time-pieces and spare parts and accessories thereof	—";

Amendment of
Schedule II to
Guj. I of 1970.

12. In the principal Act, in Schedule II, in Part A,—

(1) for the entry at serial No. 13A, the following entry shall be substituted, namely:—

1	2	3	4
"13A	Bearing of all types, including ball-bearings, roller bearings, taper bearings and middle roller bearings and spare parts and components thereof	Four paise in the rupee	Four paise in the rupee";

(2) in the entry at serial No. 20, in columns 3 and 4, for the words "Twelve paise", the words "Six paise" shall be substituted;

(3) in the entry at serial No. 42, in sub-entry (ii), in columns 3 and 4, for the words "Six paise", the words "Four paise" shall be substituted;

(4) the entry at serial No. 47 shall be deleted;

(5) for the entry at serial No. 51, the following entry shall be substituted, namely :—

1	2	3	4
"51	Ready made garments and articles prepared from any textile or handloom fabrics	Two paise in the rupee	Two paise in the rupee";

(6) the entry at serial No. 53 shall be deleted;

(7) in the entry at serial No. 57, in columns 3 and 4, for the words "Six paise", the words "Four paise" shall be substituted;

(8) the entries at serial No. 61, 72, 78 and 82 shall be deleted;

(9) in the entry at serial No. 85, sub-entry (ii) shall be deleted;

(10) existing entry at serial No. 94, shall be re-numbered as sub-entry (i) of that entry and after sub-entry (i) as so re-numbered, the following sub-entry shall be inserted, namely :—

1	2	3	4
"(ii),	Bulk drugs.	Two paise in the rupee	Two paise in the rupee";

(11) in the entry at serial No. 96, for sub-entry (i), the following sub-entry shall be substituted, namely :—

1	2	3	4
"(i) (a)	Domestic electrical appliances (whether fitted with or without electric motor) such as grinder, mixer, grinder-cum mixer, juicers, irons, hair dryers, washing machines, heaters, hot-plates, toasters, cooking ranges, ovens, vacuum cleaners and geysers and components, parts and accessories of any of them	Fifteen paise in the rupee	Fifteen paise in the rupee
(b)	Domestic flour mills and Commercial flour mills (whether fitted with or without electric motor)	Eight paise in the rupee	Eight paise in the rupee";

(12) the entry at serial No. 98 shall be deleted;

(13) existing entry at serial No. 101, shall be re-numbered as sub-entry (i) of that entry and after sub-entry (i) as so re-numbered, the following sub-entry shall be inserted, namely:—

1	2	3	4
	"(ii) Cement based mozaic tiles	Six paise in the rupee	Six paise in the rupee";

(14) in the entry at serial No. 102, in columns 3 and 4, for the words "Twelve paise", the words "Six paise" shall be substituted.

(15) the entry at serial No. 109 shall be deleted;

(16) in the entry at serial No. 111A, in column 2, for the words "Hydraulic jacks for trailers of tractors", the words "Hydraulic jacks for trailers of tractors and spare parts and accessories thereof" shall be substituted;

(17) in the entry at serial No. 112, in columns 3 and 4, for the words "Six paise", the words "Two paise" shall be substituted;

(18) in the entry at serial No. 116, in columns 3 and 4, for the words "Fifteen paise", the words "Six paise" shall be substituted;

(19) for the entry at serial No. 124, the following entry shall be substituted, namely:—

1	2	3	4
"124	Marble or granite (raw or polished) and articles or chips thereof	Six paise in the rupee	Six paise in the rupee";

(20) the entry at serial No. 127 shall be deleted;

(21) in the entry at serial No. 128, in sub-entry (3), in columns 3 and 4, for the words "Fifteen paise", the words "Six paise" shall be substituted;

(22) in the entry at serial No. 133,—

(a) in the sub-entries (i) and (iii), in columns 3 and 4, for the words "Eight paise", the words "Four paise" shall be substituted;

(b) in the sub-entries (ii), (iv), (v) and (vi), in columns 3 and 4, for the words "Twelve paise", the words "Four paise" shall be substituted;

(23) in the entry at serial No. 140, in columns 3 and 4, for the words "Fifteen paise", the words "Six paise" shall be substituted;

(24) the entry at serial No. 143 shall be deleted;

(25) in the entry at serial No. 145, in columns 3 and 4, for the words "Six paise", the words "Four paise" shall be substituted;

(26) in the entry at serial No. 163, in sub-entry (i), in columns 3 and 4, for the words "Fifteen paise", the words "Six paise" shall be substituted;

(27) the entry at serial No. 174 shall be deleted;

(28) in the entry at serial No. 192, sub-entry (ii) shall be deleted.

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by the Governor on the 26th March, 1999 is hereby published for general
information.

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 10 OF 1999.

(First published, after having received the assent of the Governor in the
Gujarat Government Gazette on the 30th March, 1999).

AN ACT

to authorise payment and appropriation of certain sums from and out of the
Consolidated Fund of the State of Gujarat for the services of the
financial year ending on the thirty-first day of March, 2000.

It is hereby enacted in the Fiftieth Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Appropriation Act, 1999.

Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there
may be withdrawn sums not exceeding those specified in column 3 of the
Schedule hereto annexed amounting in the aggregate to the sum of Twenty
thousand six hundred three crores, twenty lakhs, sixty-nine thousands rupees
towards defraying the several charges which will come in course of payment
during the financial year 1999-2000, in respect of the services and purposes
specified in column 2 of the Schedule.

Withdrawal of
Rs. 2,06,03,20,69,000
from and out of the
Consolidated Fund
of the State of
Gujarat for the
financial year
1999-2000.

3. The sums authorised to be paid and applied from and out of the Appropriation.
Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the
services and purposes expressed in the Schedule in relation to the said year.

SCHEDULE

(See sections 2 and 3)

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
1	Agriculture and Co-operation Department	Revenue 4,04,35,000	—	4,04,35,000
2	Agriculture	Revenue 2,26,15,35,000	—	2,26,15,35,000
		Capital 10,79,00,000	—	10,79,00,000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue 58,56,63,000	—	58,56,63,000
		Capital 3,00,60,000	—	3,00,60,000
4	Animal Husbandry and Dairy Development	Revenue 60,23,25,000	—	60,23,25,000
		Capital 2,00,000	—	2,00,000
5	Co-operation	Revenue 33,58,11,000	—	33,58,11,000
		Capital 22,78,95,000	—	22,78,95,000
6	Other expenditure pertaining to Agriculture and Co-operation Department	Capital 2,94,62,000	—	2,94,62,000
7	Education Department	Revenue 2,43,35,000	—	2,43,35,000
8	Education	Revenue 29,56,50,45,000	79,65,50,000	30,36,15,95,000
		Capital 2,20,000	—	2,20,000
9	Other expenditure pertaining to Education Department	Revenue 17,01,85,000	—	17,01,85,000
		Capital 41,05,95,000	—	41,05,95,000
10	Energy and Petro- Chemicals Department	Revenue 94,15,000	—	94,15,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
11	Tax Collection Charges (Energy and Petro-Chemicals Department)	Revenue 5,49,70,000	—	5,49,70,000
12	Energy Projects	Revenue 13,02,50,00,000 Capital 3,99,37,00,000	2,00,00,000 —	13,04,50,00,000 3,99,37,00,000
13	Other expenditure pertaining to Energy and Petro-Chemicals Department	Revenue 10,00,000 Capital 40,10,94,000	— —	10,00,000 40,10,94,000
14	Finance Department	Revenue 5,98,80,000 Capital 9,00,000	— —	5,98,80,000 9,00,000
15	Tax Collection Charges (Finance Department)	Revenue 52,90,67,000	—	52,90,67,000
16	Treasury and Accounts Administration	Revenue 35,11,46,000	—	35,11,46,000
17	Pension and other Retirement Benefits	Revenue 7,69,66,85,000	6,00,000	7,69,72,85,000
18	Other expenditure pertaining to Finance Department	Revenue 3,74,80,65,000 Capital 3,87,64,000	— 1,00,000	3,74,80,65,000 3,88,64,000
19	Repayment of debt pertaining to Finance Department and its servicing	Revenue — Capital —	25,64,47,51,000 9,34,21,06,000	25,64,47,51,000 9,34,21,06,000
20	Food, Civil Supplies and Consumer Affairs Department	Revenue 5,97,70,000	—	5,97,70,000
21	Civil Supplies	Revenue 95,30,78,000 Capital 2,000	— —	95,30,78,000 2,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
22	Food	Revenue 12,32,97,000	—	12,32,97,000
		Capital 5,25,01,000	—	5,25,01,000
23	Other expenditure pertaining to Food, Civil Supplies and Consumer Affairs Department	Revenue —	1,000	1,000
		Capital 95,45,000	—	95,45,000
24	Forests and Environment Department	Revenue 1,32,30,000	—	1,32,30,000
25	Forests	Revenue 87,41,16,000	—	87,41,16,000
		Capital 1,31,79,92,000	—	1,31,79,92,000
26	Environment	Revenue 7,42,00,000	—	7,42,00,000
27	Other expenditure pertaining to Forests and Environment Department	Capital 4,91,82,000	—	4,91,82,000
28	Governor	Revenue —	1,99,80,000	1,99,80,000
29	Council of Ministers	Revenue 3,15,50,000	—	3,15,50,000
30	Elections	Revenue 6,84,57,000	—	6,84,57,000
31	Public Service Commission	Revenue 1,55,62,000	2,11,00,000	3,66,62,000
32	General Administration Department	Revenue 31,70,68,000	—	31,70,68,000
33	Economic Advice & Statistics	Revenue 7,89,69,000	—	7,89,69,000
34	Other expenditure pertaining to General Administration Department	Revenue 1,69,82,10,000	4,64,000	1,69,86,74,000
		Capital 17,93,18,000	—	17,93,18,000
35	State Legislature	Revenue 7,89,01,000	6,54,000	7,95,55,000
36	Loans and Advances to Government servants in Gujarat Legislature Secretariat	Capital 14,99,000	—	14,99,000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
37	Health and Family Welfare Department	Revenue	2,36,69,000	—	2,36,69,000
38	Medical and Public Health	Revenue	7,39,76,54,000	—	7,39,76,54,000
39	Family Welfare	Revenue	1,37,99,96,000	—	1,37,99,96,000
40	Other expenditure pertaining to Health and Family Welfare Department	Revenue	76,62,25,000	—	76,62,25,000
		Capital	6,32,37,000	—	6,32,37,000
41	Home Department	Revenue	3,99,25,000	—	3,99,25,000
42	Police	Revenue	6,30,76,75,000	—	6,30,76,75,000
43	Jails	Revenue	24,68,71,000	—	24,68,71,000
44	Transport	Revenue	1,06,17,23,000	—	1,06,17,23,000
		Capital	25,00,00,000	—	25,00,00,000
45	State Excise	Revenue	4,75,28,000	—	4,75,28,000
46	Other expenditure pertaining to Home Department	Revenue	53,97,90,000	2,00,000	53,99,90,000
		Capital	44,45,56,000	—	44,45,56,000
47	Industries, Mines and Tourism Department	Revenue	2,15,04,000	—	2,15,04,000
48	Stationery and Printing	Revenue	40,88,10,000	—	40,88,10,000
49	Industries	Revenue	1,94,56,54,000	—	1,94,56,54,000
		Capital	23,10,60,000	—	23,10,60,000
50	Mines and Minerals	Revenue	18,95,34,000	—	18,95,34,000
51	Tourism	Revenue	21,44,20,000	—	21,44,20,000
		Capital	4,00,00,000	—	4,00,00,000
52	Other expenditure pertaining to Industries, Mines and Tourism Department	Revenue	13,17,66,000	—	13,17,66,000
		Capital	6,42,35,000	—	6,42,35,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
53	Information and Broadcasting Revenue Department.	52,35,000	—	52,35,000
54	Information and Publicity Revenue	23,72,94,000	—	23,72,94,000
55	Other expenditure pertaining to Information and Broadcasting Department	Revenue 2,22,32,000 Capital 28,66,000	— —	2,22,32,000 28,66,000
56	Labour and Employment Revenue Department	1,47,20,000	—	1,47,20,000
57	Labour and Employment Revenue	89,75,41,000	—	89,75,41,000
58	Other expenditure pertaining to Labour and Employment Department	Capital 5,37,98,000	—	5,37,98,000
59	Legal Department.	Revenue 2,67,78,000	—	2,67,78,000
60	Administration of Justice Revenue	83,18,94,000	10,27,74,000	93,46,68,000
61	Other expenditure pertaining to Legal Department	Revenue 4,31,05,000 Capital 5,95,64,000	— —	4,31,05,000 5,95,64,000
62	Legislative and Parliamentary Affairs Department	Revenue 1,79,94,000	—	1,79,94,000
63	Other expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital 8,44,000	—	8,44,000
64	Narmada, Water Resources and Water Supply Department	Revenue 3,97,95,000	—	3,97,95,000
65	Narmada Development Scheme	Capital 16,47,71,95,000	—	16,47,71,95,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
66	Irrigation and Soil Conservation	Revenue 7,86,59,65,000 Capital 3,19,46,00,000	— —	7,86,59,65,000 3,19,46,00,000
67	Water Supply	Revenue 1,46,88,05,000 Capital 4,04,93,00,000	— —	1,46,88,05,000 4,04,93,00,000
68	Other expenditure pertaining to Narmada, Water Resources and Water Supply Department	Revenue 1,00,000 Capital 16,14,15,000	— —	1,00,000 16,14,15,000
69	Panchayats, Rural Housing and Rural Development Department	Revenue 2,63,55,000	—	2,63,55,000
70	Community Development	Revenue 1,47,56,41,000	—	1,47,56,41,000
71	Rural Housing and Rural Development	Revenue 2,82,96,96,000 Capital 3,49,50,000	1,10,20,53,000 —	3,93,17,49,000 3,49,50,000
72	Compensation and Assignments	Revenue 37,65,60,000	—	37,65,60,000
73	Other expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue 38,29,80,000 Capital 28,52,10,000	— —	38,29,80,000 28,52,10,000
74	Fisheries	Revenue 22,02,40,000 Capital 8,80,92,000	— —	22,02,40,000 8,80,92,000
75	Other expenditure pertaining to Ports and Fisheries Department	Revenue 74,52,000 Capital 24,41,000	— —	74,52,000 24,41,000
76	Revenue Department	Revenue 6,20,51,000	—	6,20,51,000
77	Tax Collection Charges (Revenue Department)	Revenue 48,95,91,000	—	48,95,91,000
78	District Administration	Revenue 60,59,94,000	—	60,59,94,000

No. of Vote/ Appropriation	Services and purposes.	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
79	Relief on account of Natural Calamities	Revenue 3,30,56,00,000	—	3,30,56,00,000
80	Dangs District	Revenue 14,71,78,000	—	14,71,78,000
81	Compensation and Assignments	Revenue 18,28,00,000 Capital 8,00,000	11,80,000 3,00,000	18,39,80,000 11,00,000
82	Other expenditure pertaining to Revenue Department	Revenue 47,35,000 Capital 4,69,38,000	1,000 —	47,36,000 4,69,38,000
83	Roads and Buildings Department.	Revenue 4,15,65,000	—	4,15,65,000
84	Non-Residential Buildings	Revenue 1,77,98,02,000 Capital 1,17,20,47,000	3,75,000 —	1,78,01,77,000 1,17,20,47,000
85	Residential Buildings	Revenue 71,03,01,000 Capital 23,48,82,000	— —	71,03,01,000 23,48,82,000
86	Roads and Bridges	Revenue 4,11,13,19,000 Capital 2,27,20,44,000	— —	4,11,13,19,000 2,27,20,44,000
87	Gujarat Capital Construction Scheme	Revenue 7,68,25,000 Capital 32,74,00,000	— —	7,68,25,000 32,74,00,000
88	Other expenditure pertaining to Roads and Buildings Department	Revenue 10,05,85,000 Capital 14,69,00,000	— —	10,05,85,000 14,69,00,000
89	Social Justice and Empowerment Department	Revenue 2,13,19,000	—	2,13,19,000
90	Social Security and Welfare	Revenue 2,14,92,39,000 Capital 4,68,95,000	57,35,000 —	2,15,49,74,000 4,68,95,000
91	Welfare of Scheduled Tribes	Revenue 51,19,37,000 Capital 1,60,62,000	— —	51,19,37,000 1,60,62,000
92	Other expenditure pertaining to Social Justice and Empowerment Department	Capital 1,16,13,000	—	1,16,13,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
93	Special Component Plan for Scheduled Castes	Revenue 2,79,28,21,000 Capital 17,16,03,000	— —	2,79,28,21,000 17,16,03,000
94	Tribal Area Sub-Plan	Revenue 8,29,58,78,000 Capital 1,92,22,26,000	— —	8,29,58,78,000 1,92,22,26,000
95	Sports, Youth and Cultural Activities Department	Revenue 81,50,000	—	81,50,000
96	Youth Services and Cultural Activities	Revenue 27,04,52,000	—	27,04,52,000
97	Other expenditure pertaining to Sports, Youth and Cultural Activities Department	Capital 22,60,000	—	22,60,000
98	Urban Development and Urban Housing Department	Revenue 1,42,90,000	—	1,42,90,000
99	Urban Housing	Revenue 11,05,83,000	32,86,40,000	43,92,23,000
100	Urban Development	Revenue 2,07,60,44,000 Capital 2,75,00,000	— —	2,07,60,44,000 2,75,00,000
101	Compensation, Assignments and Tax Collection Charges	Revenue 79,13,00,000	25,51,03,000	1,04,64,03,000
102	Other expenditure pertaining to Urban Development and Urban Housing Department	Revenue 1,39,75,000 Capital 16,10,000	— —	1,39,75,000 16,10,000
Total :		Revenue 1,29,63,44,30,000 Capital 38,75,49,72,000	28,30,01,61,000 9,34,25,06,000	1,57,93,45,91,000 48,09,74,78,000
Grand Total :		1,68,38,94,02,000	37,64,26,67,000	2,06,03,20,69,000

IV-EX 10-3



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Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

INDUSTRIES AND MINES DEPARTMENT
Sachivalaya, Gandhinagar, Dated the 28th April, 1999.

GUJARAT ORDINANCE NO. 1 OF 1999

AN ORDINANCE

*to provide for a framework for participation by persons other than the
State Government and Government agencies in financing, construction,
maintenance and operation of infrastructure projects and for that purpose to
establish the Board and to provide for the
matters connected therewith.*

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances
exist which render it necessary for him to take immediate action to provide for a
framework for participation by persons other than the State Government and
Government agencies in financing, construction, maintenance and operation of
infrastructure projects and for that purpose to establish the Board and to provide for
the matters connected therewith;

NOW, THEREFORE, in exercise of the powers conferred on him by clause
(1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby
pleased to make and promulgate the following Ordinance, namely :-

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*— (1) This Ordinance may be called the Gujarat Infrastructure Development Ordinance, 1999.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification, in the *Official Gazette*, appoint.

2. *Definitions.*— In this Ordinance, unless the context otherwise requires,—

(a) “Board” means the Gujarat Infrastructure Development Board established under section 16;

(b) “concession agreement” means a contract of the nature specified in the Schedule II between a developer and the State Government, a Government agency or a specified Government agency, relating to a project;

(c) “developer” means a person with whom concession agreement is entered into by the State Government, the Government agency or the specified Government agency;

(d) “escrow account” means a bank account in which cash is deposited or from which cash is withdrawn in such manner as specified in the concession agreement;

(e) “Government agency” means a Corporation or a body owned or controlled by the State Government or an authority established by or under any law and includes a local authority;

(f) “infrastructure” means facilities and services provided by a project;

(g) “local authority” means a municipal corporation, nagar panchayat, municipal council, notified area committee, district panchayat, taluka panchayat, village panchayat or such other body;

(h) “member” means a member of the Board including Chairman, Vice-Chairman and Member - Secretary;

(i) “prescribed” means prescribed by rules made under this Ordinance;

(j) “project” means a project specified in Schedule I;

(k) “regulations” means regulations made under section 35;

(l) “rules” means rules made under section 34;

(m) “senior loan” means a loan in respect of which a claim on assets is prior to the claim on the assets in respect of other loan and which is specified as such in an agreement providing finance;

(n) “specified Government agency” means an agency consisting of the State Government and a Government agency participating jointly;

(o) “State Government guarantee” means a guarantee given by the State Government to a developer consistent with the provisions of the Gujarat State Guarantees Act, 1963;

(p) “subordinate loan” means a loan in respect of which a claim on assets is subsequent to the claim on the assets in respect of another loan and which is

specified as such in an agreement providing finance;

(q) "subsidy" means financial assistance in cash or kind provided by the State Government, the Government agency or the specified Government agency;

(r) "user fees" means fees charged under section 11.

CHAPTER II

INFRASTRUCTURE PROJECTS

3. *Participation in projects.*—Any person may participate in financing, construction, maintenance and operation of projects.

4. *Concession agreement.*—(1) (a) A person may enter into a concession agreement of the nature specified in Schedule II with the State Government, a Government agency or a specified Government agency.

(b) The scheme for a concession agreement shall be such as may be prescribed.

(2) Where the Board, having regard to the nature of a project, is satisfied that it is necessary so to do, it may permit combination of two or more agreements of the nature specified in Schedule II into one agreement.

(3) No concession agreement shall provide for transfer of a project by a developer to the State Government, a Government agency or a specified Government agency later than thirty-five years from the date of agreement.

(4) (a) The State Government may, by notification in the *Official Gazette*, add to Schedule II any other nature of agreement.

(b) All notifications issued under clause (a) shall be laid before the State Legislature as soon as may be after they are issued.

5. *Recommendation by Board.*—(1) A proposal prepared by the State Government, a Government agency or a specified Government agency for participation by a person other than the State Government, a Government agency or a specified Government agency in financing, construction, maintenance and operation of the project, the cost of which exceeds such amount as may be prescribed, shall be submitted to the Board alongwith proposed concession agreement relating thereto and different amount of cost may be prescribed for different nature of project.

(2) The Board shall consider the proposal and the proposed concession agreement submitted to it under sub-section (1) or sub-section (1) of section 10 and may either recommend with or without modifications or not recommend, or return the proposal and concession agreement for reconsideration of the State Government, the Government agency or, as the case may be, the specified Government agency.

6. *Assistance by State Government, Government agency or specified Government agency.*—The State Government, a Government agency or a specified Government agency may provide to a person assistance in the following manner, namely:—

(a) participation in the equity of the project not exceeding forty-nine per cent. of the total equity;

(b) subsidy not exceeding fifteen per cent. of the cost of the project;

(c) senior or subordinate loans;

(d) guarantee by the State Government, a Government agency or a specified Government agency in respect of liability of a Government agency arising out of a concession agreement;

- (e) opening and operation of escrow account;
- (f) conferment of development rights in respect of any land;
- (g) incentives by the State Government in the form of exemption from the payment of, or deferred payment of, any tax or fees levied by the State Government under any law; or
- (h) in such other manner.

7. *Procedure for concession agreement.*—No concession agreement for undertaking a project shall be entered into with any person unless the procedure specified in sections 8 and 9 or, as the case may be, section 10 has been followed.

8. *Selection of a person.*—(1) A concession agreement for undertaking a project may be entered into with a person who is selected through a competitive public bidding as provided in section 9 or by direct negotiation as provided in section 10.

(2) The matters relating to competitive public bidding and direct negotiation shall be such as may be prescribed.

9. *Selection of a person by competitive public bidding.*—(1) On the acceptance of the recommendation of the Board made under sub-section (2) of section 5, the State Government, the Government agency or, as the case may be, the specified Government agency shall select a developer for the project through the competitive public bidding in the manner provided hereunder :-

- (a) A public notice inviting the persons to participate in competitive public bidding for undertaking the project-
 - (i) shall be published once in a week for two consecutive weeks in atleast three newspapers, two in general circulation and one in circulation in the area in which the project is to be undertaken, and
 - (ii) may be published by any means of mass communication.
- (b) (i) Any person who intends to participate in the competitive public bidding to undertake the project in pursuance of clause (a) shall provide information with regard to his legal, technical, managerial and financial capacity to undertake the said project in such form alongwith such particulars as may be specified by the State Government, the Government agency or, as the case may be, the specified Government agency.
- (ii) The State Government, the Government agency or, as the case may be, the specified Government agency shall examine the information and other particulars submitted by the person under sub-clause (i) and decide as to whether such person fulfills the criteria for pre-qualification as laid down by the State Government, the Government agency or, as the case may be, the specified Government agency.
- (iii) A person who fulfills the criteria under sub-clause (ii) shall be the pre-qualified person.
- (c) (i) Where after a person who is consortium is pre-qualified under clause (b) but before such person enters into a concession agreement with the State Government, the Government agency or, as the case may be, the specified Government agency, any constituent of the consortium disassociates from such consortium, then the State Government, the Government agency or, as the case may be, the specified Government agency shall call upon the consortium to include, within thirty days, such constituent in the consortium

so that in the opinion of the State Government, the Government agency or, as the case may be, the specified Government agency, the consortium fulfills the criteria specified in sub-clause (ii) of clause (b).

(ii) Where the consortium fails to comply with the requirement specified in sub-clause(i), the consortium shall cease to be pre-qualified person.

(d) All pre-qualified persons shall be permitted to submit their proposals to undertake the project in such form (containing technical and financial aspects) as may be specified by the State Government, the Government agency or, as the case may be, the specified Government agency.

(2) On receipt of the proposals from the pre-qualified persons, the State Government, the Government agency or, as the case may be, the specified Government agency shall evaluate the proposals from technical aspect.

(3) If the proposals are in order from the technical aspect, the State Government, the Government agency or, as the case may be, the specified Government agency shall evaluate the proposals from the financial aspect, having regard to different factors specified below in respect of different nature of the agreements specified in Schedule II:—

(a) In relation to the build own operate and transfer agreement and the build operate and transfer agreement, any of the following factors shall be taken into consideration for the purpose of evaluation of the proposal, namely:—

- (i) lowest bid in terms of the present value of user fees, where period of concession is fixed;
- (ii) the highest revenue share to the State Government, the Government agency or the specified Government agency;
- (iii) a bid in terms of the shortest concession period, where the user fees is fixed;
- (iv) the lowest present value of the subsidy, where the period of concession is fixed.

(b) In relation to the build and transfer agreement or the build lease and transfer agreement, the lowest net present value of the amortization payment from the State Government, the Government agency or the specified Government agency shall be taken into consideration.

(c) In relation to the lease management agreement, highest present value of the lease payment to the State Government, the Government agency or the specified Government agency shall be taken into consideration.

(d) In relation to the management and service agreement, the lowest present value of the management fees to be paid by the State Government, the Government agency or the specified Government agency shall be taken into consideration.

(e) In relation to any other nature of agreement, the State Government, the Government agency or the specified Government agency may consider such factors as may be recommended by the Board.

(4) Where—

- (a) the proposals are evaluated under sub-section (3) from the financial aspect having regard to relevant factor specified in that sub-section and referred to in the proposals, and

(b) one of the proposals so evaluated satisfies the financial aspect having regard to the relevant factor,

the State Government, the Government agency or, as the case may be, the specified Government agency, may enter into a concession agreement with the person who has submitted the proposal referred to in clause (d) of sub-section (1).

(5) Where no proposal stands the scrutiny from the technical or financial aspect, the competitive bidding shall stand cancelled.

(6) Nothing in sub-section (5) shall prohibit the State Government, the Government agency or, as the case may be, the specified Government agency from inviting persons to participate in competitive public bidding in respect of the proposal cancelled under that sub-section after, if necessary, revising the same.

10. Selection by direct negotiation.—(1) Where —

(i) a proposal for participation by a person for undertaking a project and a proposed concession agreement have not been prepared by the State Government, a Government agency or a specified Government agency for being submitted to the Board under sub-section (1) of section 5, and

(ii) a proposal for undertaking a project and a proposed concession agreement prepared by a person are submitted to the State Government, the Government agency or the specified Government agency;

the State Government, the Government agency or, as the case may be, the specified Government agency may—

(a) consider the proposal and the proposed concession agreement from all aspects (including technical and financial) and if necessary, modify the same in consultation with the person who has submitted the proposal and the proposed concession agreement; and

(b) submit the proposal and the proposed concession agreement to the Board, if—

(i) the cost of the project exceeds the limit prescribed under sub-section (1) of section 5, and

(ii) the undertaking of the project does not require financial assistance in the form of subsidy from the State Government, the Government agency or the specified Government Agency.

(2) On acceptance of the recommendation of the Board made under sub-section (2) of section 5, the State Government, the Government agency or, as the case may be, the specified Government agency shall adopt the proposal as the basis for selecting a person with whom concession agreement for undertaking the project may be entered into, and for selecting such person, the State Government, the Government agency or, as the case may be, the specified Government agency shall follow the procedure of competitive public bidding specified in section 9.

(3) Where a person is selected by following the procedure of the competitive public bidding (hereinafter referred to as “the selected person”), the proposal of the selected person shall be compared with the proposal which is earlier submitted by a person to the State Government, the Government agency or, as the case may be, the specified Government agency under sub-section (1) (hereinafter referred to as “the earlier proposer”).

(4) Where the proposal of the earlier proposer is not preferable to the proposal of the selected person, the earlier proposer shall be given an opportunity to make his proposal competitive with that of the selected person within a period of thirty days from the date on which he has been given an opportunity and where the earlier proposer fails to do so within the said period, the State Government, the Government agency or, as the case may be, the specified Government agency may enter into a contract with the selected person.

(5) (a) Where a concession agreement has not been entered into with the earlier proposer, the cost of preparation of the proposal and the concession agreement incurred by him shall be reimbursed by the State Government, the Government agency or, as the case may be, the specified Government agency and on such reimbursement, the proposal and the concession agreement relating to it shall be the property of the State Government, the Government agency or, as the case may be, the specified Government agency.

(b) The cost of preparation of the proposal and the concession agreement shall be determined in such manner as may be prescribed.

11. Fees to be charged for goods and services.— (1) Where, in pursuance of a concession agreement with the State Government, the Government agency or the specified Government agency,—

(a) the developer has constructed a project for providing goods or services; and

(b) the project vests in the developer for a period specified in the agreement and on expiry of such period, the project is to vest in the State Government, the Government agency or, as the case may be, the specified Government agency,

the developer may charge such fees as specified in the agreement for providing goods or services by the project so long as the project continues to vest in him.

(2) A concession agreement may provide that a developer may revise the fees referred to in sub-section (1) in such manner and having regard to the rate of inflation, variation in the rate of the foreign exchange and such other factors, as may be prescribed.

12. Financial security for maintenance of project.— Where a provision is made in a concession agreement requiring the developer to maintain the project constructed by him for a period specified in such agreement,—

(a) there shall be opened an escrow account by the developer, the moneys out of which shall be expended for the maintenance of the project in accordance with the provision made in the concession agreement or in any other agreement with the State Government, the Government agency or, as the case may be, the specified Government agency; or

(b) the developer shall execute a bond in the favour of the State Government, the Government agency or, as the case may be, the specified Government agency binding himself to make payment of such amount of money as specified in the bond to the State Government, the Government agency or, as the case may be, the specified Government agency, in case he fails to maintain the project in accordance with the provisions made in the concession agreement or any other agreement with the State Government, the Government agency or, as the case may be, the specified Government agency.

13. Training to employees and transfer of certain rights.—(1) A developer shall provide at his expense, training to the employees of the State Government, the Government agency or, as the case may be, the specified Government agency in respect of maintenance or operation of the project in accordance with the provisions made in the concession agreement or in any other agreement with the State Government, the Government agency or, as the case may be, the specified Government agency.

(2) Where the project is transferred to the State Government, the Government agency or the specified Government agency according to the provisions of the concession agreement, all the rights of the developer in respect of the project shall stand transferred to the State Government, the Government agency or, as the case may be, the specified Government agency.

14. Termination of concession agreement.—(1) Where a concession agreement is terminated by the State Government, the Government agency or, as the case may be, the specified Government agency with the consent of the developer or in absence of any default of the developer, the developer shall be entitled to such amount of compensation for such termination as specified in the concession agreement.

(2) A concession agreement may provide that if a default specified therein is committed by the developer, the State Government, the Government agency or, as the case may be, the specified Government agency shall, after giving to the developer an opportunity of being heard in such manner as may be prescribed, be entitled to terminate the concession agreement and—

(a) take over the project without repaying the amount invested by the developer in the equity and shall assume the liability of the developer towards loans taken by him in respect of the project; or

(b) enter into a concession agreement with another person whose name is recommended by the lenders and approved by the State Government, the Government agency or, as the case may be, the specified Government agency, on the same terms and conditions as are specified in the concession agreement so terminated.

15. Power to add to Schedule I.—(1) The State Government may, by notification in the *Official Gazette*, add to Schedule I any other project which falls within the executive power of the State.

(2) All notifications issued under sub-section (1) shall be laid before the State Legislature as soon as may be after they are issued.

CHAPTER III

ESTABLISHMENT AND CONSTITUTION OF BOARD

16. Establishment of Board.—As soon as may be after the commencement of this Ordinance, the State Government may, by notification in the *Official Gazette*, establish a Board to be called the Gujarat Infrastructure Development Board with effect from such date as may be specified in the notification.

17. Head Quarter of Board.—The Head Quarter of the Board shall be at Gandhinagar or at such other place as the State Government may, by notification in the *Official Gazette*, specify.

18. Constitution of Board.—The Board shall consist of Chairman, Vice-Chairman, Member - Secretary and such number of other members not exceeding fifteen, who shall be appointed by the State Government.

19. *Term of office of members.*—Every member shall hold office during the pleasure of the State Government.
20. *Filling up of casual vacancies.*—If any vacancy arises in the Board or any committee thereof by reason of death, resignation or otherwise, the same shall be filled by the State Government as soon as possible.
21. *Meetings of Board.*—The Board shall meet at such time and place and shall observe such rules of procedure in regard to transaction of business at its meeting (including the quorum at such meeting) as may be provided by regulations.
22. *Temporary association of persons with Board.*—The Board may associate with any person whose assistance or advice is required in performing any of its functions under the Ordinance.
23. *Providing information to Board.*—The Board may obtain the information with regard to the progress of the project which is submitted to it under sub-section (1) of section 5 or which was undertaken as per the provisions of section 10 from the State Government, the Government agency or the specified Government agency.
24. *Constitution of committees.*—The Board may constitute an Executive Committee and such other committees consisting of such number of members, for performing such of its functions, as may be provided by regulations.
25. *Officers and servants of Board.*—(1) The Board may appoint such officers and servants as it may consider necessary for the efficient discharge of its functions.
- (2) The remuneration, allowances and conditions of service of the officers and servants of the Board shall be such as may be determined by the regulations.
26. *Acts and proceedings of Board presumed to be valid.*—No act or proceeding of the Board or of any of its committees shall be invalid merely by reason of—
- (a) any vacancy therein or any defect in the constitution thereof, or
 - (b) any irregularity in its procedure not affecting the merit of the case.

CHAPTER IV

FUNCTIONS OF BOARD

27. *Functions of Board.*—The functions of the Board shall be as follows, namely :—
- (a) to promote participation of a person in financing, construction, maintenance and operation of any project irrespective of its cost;
 - (b) to advise the State Government, the Government agency or the specified Government agency on matters of policy in respect of participation referred to in clause (a);
 - (c) to lay down priorities of projects to be undertaken by the State Government, the Government agency or the specified Government agency;
 - (d) to consider the proposal for undertaking a project and the proposed concession agreement submitted to it and to recommend with or without modifications or not recommend or return the proposal and proposed concession agreement for reconsideration of the State Government, the Government agency or, as the case may be, the specified Government agency;
 - (e) to elicit information relating to National and International Financial Institutions and to ensure co-operation of such Institutions;

- (f) to co-ordinate and monitor the projects undertaken in the State;
- (g) to assist in developing concepts of projects by undertaking pre-feasibility and feasibility studies of the project;
- (h) to undertake such project as may be entrusted to it by the State Government;
- (i) such other functions as may be entrusted to it by the State Government.

CHAPTER V

FINANCE, ACCOUNT, AUDIT AND REPORT

28. *Fund of Board.*—(1) The Board shall have its own fund.

(2) All sums which may, from time to time, be paid to the Board by the State Government or by any body and the amount charged by the Board under section 31 shall be carried to the fund of the Board and all payments shall be made therefrom.

(3) The Board may spend such sums as it thinks fit for the performance of its functions under this Ordinance, and such sums shall be treated as expenditure payable out of the fund of the Board.

29. *Accounts and audit.*—(1) The accounts of the Board shall be prepared and maintained in such form and in such manner as may be provided by regulations.

(2) The Board shall cause to be prepared for each financial year an annual statement of accounts in such form as may be provided by regulations.

(3) The accounts of the Board shall be audited by the auditor duly qualified to act as an auditor of the Companies under section 226 of the Companies Act, 1956. 1 of 1956.

(4) The auditor shall send a copy of the report together with audited copy of accounts to the Board which shall as soon as may be after the receipt of the audit report forward the same to the State Government.

(5) The State Government shall cause the audit report together with audited copy of accounts to be laid before the State Legislature as soon as may be after the receipt of the same under sub-section (4).

30. *Annual report.*—(1) The Board shall during each financial year prepare in such form and at such time as may be provided by regulations, an annual report giving a true and full account of its activities during the previous financial year and an account of the activities likely to be undertaken by it in current financial year and copies of such report shall be forwarded to the State Government.

(2) The State Government shall cause every such report to be laid before the State Legislature as soon as may be after the receipt of the audit report under sub-section (1).

CHAPTER VI

MISCELLANEOUS

31. *Amount to be charged by Board.*—The Board may charge such amount as may be determined by it for considering the proposal and the proposed concession agreement under sub-section (2) of section 5.

32. *Members, officers and servants to be public servants.*—All members and officers and servants of the Board shall, while acting or purporting to act in pursuance of the provisions of this Ordinance or any rules or regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

33. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Board or any member and officer or servant of the Board for anything which is in good faith done or intended to be done in pursuance of the provisions of this Ordinance or any rules and regulations made thereunder.

34. *Power to make rules.*—(1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the scheme for concession agreement under clause (b) of sub-section (1) of section 4;
- (b) the amount of cost of a project exceeding which a proposal shall be submitted to the Board under sub-section (1) of section 5; and different amounts of costs for different nature of projects;
- (c) the matters relating to competitive public bidding and direct negotiation under sub-section (2) of section 8;
- (d) the assessment of the cost of preparation of the proposal and the concession agreement under clause (b) of sub-section (5) of section 10;
- (e) the manner in which and the factors having regard to which, fees may be revised under sub-section (2) of section 11;
- (f) the manner in which an opportunity of being heard shall be given to the developer under sub-section (2) of section 14;
- (g) any other matter which is to be or may be prescribed.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

35. *Power to make regulations.*—(1) The Board may make regulations not inconsistent with provisions of this Ordinance and the rules made thereunder, for enabling it to discharge its functions under this Ordinance.

(2) In particular and without prejudice to the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) the time and the place of the meetings of the Board and rules of procedure to be observed by the Board in regard to transaction of business at its meeting under section 21;
- (b) constitution of committee, number of members thereof and the functions to be performed by committees under section 24;
- (c) to determine the remuneration, allowances and conditions of service of officers and servants of the Board under sub-section (2) of section 25;
- (d) the form and manner in which the accounts of the Board shall be prepared and maintained under sub-section (1) of section 29;
- (e) the form in which an annual statement of accounts of the Board shall be prepared under sub-section (2) of section 29;

(f) the form in which and the time within which the annual report of the Board shall be prepared under sub-section (1) of section 30;

(g) any other matter which is, or may be, necessary to be prescribed for the efficient conduct of the affairs of the Board.

36. *Arbitration.*—A concession agreement shall contain an arbitration clause providing that—

(a) all parties to the agreement shall submit to arbitration all disputes which may arise between them out of the provisions of this agreement,

(b) the place of arbitration shall be at Ahmedabad or any other place in India agreed to by the parties, and

(c) the disputes referred to in clause (a) shall be decided in accordance with the law for the time being in force in India.

37. *Gujarat Public Works Contracts Disputes Arbitration Tribunal Act, 1992 not to apply.*—

Guj. 4 of
1992.

Nothing contained in the Gujarat Public Works Contracts Disputes Arbitration Tribunal Act, 1992 shall apply to any arbitration arising out of the provisions of the concession agreement entered into by the State Government, the Government agency or the specified Government agency with a developer.

38. *Savings.*— (1) Nothing in this Ordinance shall affect the validity of —

(a) a concession agreement entered into by the State Government, the Government agency or the specified Government agency with a developer before the date of the commencement of this Ordinance (hereinafter referred to as 'the said date');

(b) (i) a letter of intent or any other writing issued to a person before the said date entrusting to him a project for execution if a concession agreement is entered into with respect to the project in pursuance of the said letter of intent or the writing, by the Government, the Government agency or the specified Government agency with such person within a period of six months from the said date or such further period as may be extended by the State Government,

(ii) a concession agreement entered into under sub-clause (i) notwithstanding that the procedure specified in sections 8 and 9 or, as the case may be, section 10 is not followed before entering into such concession agreement.

SCHEDULE I

(See clause (j) of section 2)

PROJECTS

1. Power Generation, Transmission and Distribution Systems.
2. Roads, Bridges and By-passes.
3. Ports (other than major ports) and Harbours thereof.
4. Urban Transportation.
5. Dams.
6. Water Storage, Water Supply and Sewerage System.
7. Irrigation.
8. Land Reclamation Projects.
9. Industrial Estates including Industrial Parks.
10. Tourism Projects.
11. Solid Waste Management.
12. Information Technology related Projects.
13. Education.
14. Health Facilities.
15. Public Markets.
16. Post-harvest Facilities.
17. Inland Waterways other than National Waterways.
18. Fisheries not beyond territorial waters.
19. Development of Minor Minerals.
20. Gas and Gas Works.

SCHEDULE II

(See section 4)

NATURE OF CONCESSION AGREEMENT

1. *Build Own Operate and Transfer Agreement* : An agreement whereby the developer undertakes to finance, construct, maintain and operate a project and whereby such project is to vest in the developer for a specified period. During the period of operation of the project by the developer, he may be permitted to charge user fees specified in an agreement. The developer is liable to transfer the project to the State Government, the Government agency or, as the case may be, the specified Government agency after the expiry of the period of operation.
2. *Build Own Operate and Maintain Agreement* : An agreement whereby a developer undertakes to finance, construct, operate and maintain a project and whereby such project is to vest in the developer for specified period. During the period of operation of the project, he may be permitted to charge user fees specified in the agreement.
3. *Build and Transfer Agreement* : An agreement whereby developer undertakes to finance and construct a project. After the completion of the project, the developer shall transfer the project to the State Government, the Government agency or, as the case may be, the specified Government agency. The developer shall be paid such amount as is fixed in amortization schedule specified in the agreement.
4. *Build Lease and Transfer Agreement* : An agreement whereby a developer undertakes to finance and construct the project. On completion of the project, the developer hands it over to the State Government, the Government agency or, as the case may be, the specified Government agency for operation under a lease agreement for period specified in the agreement after the expiry of which the project stands transferred to the State Government, the Government agency or, as the case may be, the specified Government agency.
5. *Build Transfer and Operate Agreement* : An agreement whereby the developer undertakes to finance and construct the project. On completion of the project, the developer transfers the project to the State Government, the Government agency or, as the case may be, the specified Government agency which permits the developer to operate the project on its behalf for a period specified in the agreement.
6. *Lease Management Agreement* : An agreement whereby the State Government, the Government agency or the specified Government agency leases a project owned by the State Government, the Government agency or, as the case may be, the specified Government agency to the person who is permitted to operate and maintain the project for the period specified in the agreement and to charge user fees therefor.
7. *Management Agreement* : An agreement whereby the State Government, the Government agency or the specified Government agency entrusts the operation and management of a project to a person for the period specified in the agreement on payment of specified consideration. In such agreement the State Government, the Government agency or, as the case may be, the specified Government agency may charge the user fees and collect the same either itself or entrust the collection for

consideration to any person who shall after collecting the user fees pay the same to the State Government, the Government agency or, as the case may be, the specified Government agency.

8. *Rehabilitate Operate and Transfer agreement* : An agreement whereby an existing project is vested in a person to renovate, operate and maintain for the period specified in the agreement after the expiry of which the project shall be transferred to the State Government, the Government agency or, as the case may be, the specified Government agency. During the period of operation of the project by the developer, he may be permitted to charge user fees specified in the agreement.

9. *Rehabilitate Own Operate and Maintain Agreement* : An agreement whereby an existing project is vested in a person to renovate, operate and maintain. The person shall be permitted to charge user fees as specified in the agreement.

10. *Service Contract Agreement* : An agreement whereby a person undertakes to perform a service to the State Government, the Government agency or the specified Government agency for a specified period. The State Government, the Government agency or, as the case may be, the specified Government agency shall pay him an amount according to the agreed schedule.

11. *Supply Operate and Transfer Agreement* : An agreement whereby a person supplies to the State Government, the Government agency or the specified Government agency the equipments and machinery for a project and undertakes to operate the project for a period and consideration specified in the agreement. During the operation of the project, he shall undertake to train employees of the State Government, the Government agency or, as the case may be, the specified Government agency to operate the project.

12. *Joint Venture Agreement* : An agreement whereby the State Government, the Government agency or the specified Government agency enters into an agreement with a developer to jointly finance, construct, operate and maintain a project for a period specified in the agreement after the expiry of which the project shall be transferred to the State Government, the Government agency or, as the case may be, the specified Government agency.

STATEMENT

For rapid industrialisation, balanced development and improvement of quality of life of the people of the State, infrastructure facilities of higher quality and on a large scale are required to be provided. For that purpose, it is essential that besides the State Government and the Government agencies, private sector is also involved in substantial manner in providing infrastructure facilities in the State. For that purpose it is necessary to provide a frame work to the private sector participation in financing, construction, operation and maintenance of infrastructure projects in the State.

At present the Gujarat Infrastructure Development Board is constituted to promote participation of private sector in the development of infrastructure facilities in the State. It is considered necessary to replace the existing Board by a Statutory Board.

For this purpose, a Bill called the Gujarat Infrastructure Development Bill, 1999 was published with a view to introduce in the last session of the Gujarat Legislative Assembly but could not be taken up by the House for want of time.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to achieve the aforesaid objects.

Gandhinagar,
Dated the 28th April, 1999.

SUNDAR SINGH BHANDARI,
Governor of Gujarat

By order and in the name of the Governor of Gujarat.

A. K. JOTI,
Secretary to Government.



The Gujarat Government Gazette EXTRAORDINARY

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Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

ENERGY AND PETROCHEMICALS DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 12th May, 1999.

GUJARAT ORDINANCE NO. 2 OF 1999.

AN ORDINANCE

further to amend the Gujarat Tax on Sale of Electricity Act, 1985.

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

Guj. 5 of 1985. AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Tax on Sale of Electricity Act, 1985;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :-

1. *Short title and commencement.*—(1) This Ordinance may be called the Gujarat Tax on Sale of Electricity (Amendment) Ordinance, 1999.

(2) It shall come into force at once.

2. *Guj. 5 of 1985 to be temporarily amended.*—During the period of operation of this Ordinance, the Gujarat Tax on Sale of Electricity Act, 1985 (hereinafter referred to as "the principal Act"), shall have effect subject to the amendments specified in sections 3 and 4. Guj. 5 of 1985.

3. *Amendment of section 2 of Guj. 5 of 1985.*—In the principal Act, in section 2,—

(1) in clause (c), for the words, figures and brackets "supplying energy and the State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948", the words, figures, letter and brackets "supplying energy, the Generating Company as defined in sub-section (4A) of section 2 of the Electricity (Supply) Act, 1948 and the State Electricity Board constituted under section 5 of that Act of 1948" shall be substituted; LIV of 1948.
LIV of 1948.

(2) to clause (h), the following proviso shall be added, namely :—

"Provided that where a licensee, who has installed the generating set for his own use, supplies surplus electrical energy to any other undertaking (hereinafter referred to as "the receiving undertaking"), the amount payable by any other consumer for supply of such quantum of power to the licensee who is engaged in the business of supplying energy within the area where the receiving undertaking is located, shall be considered to be the amount of sale price received and receivable by the licensee who has installed the generating set irrespective of actual amount paid and payable to him."

4. *Amendment of section 10 of Guj. 5 of 1985.*—In the principal Act, in section 10, for the brackets, figures and words "not exceeding 12% per annum", the words "not exceeding twenty-four per cent. per annum," shall be substituted.

STATEMENT

In view of the amendments made by the Parliament in the Electricity (Supply) Act, 1948 by Act No. 50 of 1991, the scope of the Generating Company is enlarged covering all the Companies registered under the Companies Act, 1956 and the Generating Company is allowed to sell electricity to any other person with the consent of the Government. Under the existing provisions of the Gujarat Tax on Sale of Electricity Act, 1985, Generating Company is not included in the definition of the licensee. It is, therefore, considered necessary to amend clause (c) of section 2 of the Gujarat Act of 1985 so as to include Generating Company in the definition of 'licensee' and to make it liable to pay tax under the Act.

Under the existing provisions of the Act, the tax is levied and collected on the turnover of sale of electricity. The term "turnover of sales" is defined in clause (h) of section 2 of the Act to mean an aggregate amount of the sale price received and receivable by the licensee in respect of sale of electricity. In order to safeguard the revenue of the State, it is considered necessary to amend the said clause (h) so as to provide that licensee who has installed the generating set for his own use and supplies electrical energy to any other undertaking shall be liable to pay tax for supply of such quantum of power on the amount payable by any other consumer for such supply to the licensee who is engaged in the business of supplying energy within the area where the receiving undertaking is located irrespective of actual amount paid or payable to the licensee who has installed the generating set.

The existing section 10 provides for charging of interest at the rate not exceeding twelve per cent. for non-payment or delayed payment of tax. In order to make recovery of tax effectively and to make provision on par with other taxation laws, it is considered necessary to enhance the rate of interest from twelve per cent. to twenty four per cent.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the said Act of 1985 to achieve the aforesaid objects.

Gandhinagar,
Dated the 11th May, 1999.

SUNDER SINGH BHANDARI,
Governor of Gujarat.

By order and in the name of the Governor of Gujarat,

C. K. KOSHY,
Additional Chief Secretary to Government.



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Separate paging is given to this Part in order that it
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PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor
on the 2nd October, 1999 is hereby published for general information.

KUM, H. K. JHAVERI

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 11 OF 1999.

(First published, after having received the assent of the Governor in the Gujarat
Government Gazette, on the 5th October, 1999).

AN ACT

to provide for a framework for participation by persons other than the
State Government and Government agencies in financing, construction,
maintenance and operation of infrastructure projects and for that purpose to
establish a Board and to provide for the
matters connected therewith.

It is hereby enacted in the Fiftieth Year of the Republic of India, as follows :-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gujarat Infrastructure Development
Act, 1999.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall be deemed to have come into force on the 28th April, 1999.

Short title, ex-
tent and com-
mencement.

Definitions. 2.

In this Act, unless the context otherwise requires,—

- (a) "Board" means the Gujarat Infrastructure Development Board established under section 17;
- (b) "concession agreement" means a contract of the nature specified in Schedule II between a developer and the State Government, a Government agency or a specified Government agency, relating to a project;
- (c) "developer" means a person with whom concession agreement is entered into by the State Government, a Government agency or a specified Government agency;
- (d) "escrow account" means a bank account in which cash is deposited or from which cash is withdrawn in such manner as specified in the concession agreement;
- (e) "Government agency" means a Corporation or a body owned or controlled by the State Government or an authority established by or under any law and includes a local authority;
- (f) "infrastructure" means facilities and services provided by a project;
- (g) "local authority" means a municipal corporation, nagar panchayat, municipal council, notified area committee, district panchayat, taluka panchayat, village panchayat or such other body;
- (h) "member" means a member of the Board including Chairman, Vice- Chairman and Member - secretary;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "project" means a project specified in Schedule I;
- (k) "regulations" means regulations made under section 38;
- (l) "rules" means rules made under section 37;
- (m) "senior loan" means a loan in respect of which a claim on assets is prior to the claim on the assets in respect of other loan and which is specified as such in an agreement providing finance;
- (n) "specified Government agency" means an agency consisting of the State Government and a Government agency participating jointly;
- (o) "State Government guarantee" means a guarantee given by the State Government to a developer consistent with the provisions of the Gujarat State Guarantees Act, 1963; Guj. XXII
of 1963.
- (p) "subordinate loan" means a loan in respect of which a claim on assets is subsequent to the claim on the assets in respect of another loan and which is specified as such in an agreement providing finance;
- (q) "subsidy" means financial assistance in cash or kind provided by the State Government, a Government agency or a specified Government agency;
- (r) "user charges" means the amount charged under section 11.

CHAPTER II

INFRASTRUCTURE PROJECTS

3. Any person may participate in financing, construction, maintenance and operation of a project. Participation in project.
4. (1) (a) A person may enter into a concession agreement of the nature specified in Schedule II with the State Government, a Government agency or a specified Government agency. Concession agreement.
 (b) The scheme for a concession agreement shall be such as may be prescribed.
 (2) Where the Board, having regard to the nature of a project, is satisfied that it is necessary so to do, it may permit combination of two or more agreements of the nature specified in Schedule II into one agreement.
 (3) No concession agreement shall provide for transfer of a project by a developer to the State Government, a Government agency or a specified Government agency later than thirty-five years from the date of agreement.
 (4) (a) The State Government may, by notification in the *Official Gazette*, add to Schedule II any other nature of agreement and thereupon the nature of agreement so added shall be deemed to be a nature of agreement specified in Schedule II for the purposes of this Act.
 (b) Every notification issued under clause (a) shall be laid before the State Legislature as soon as may be after it is issued.
5. (1) A proposal prepared by the State Government, a Government agency or a specified Government agency for participation by a person other than the State Government, a Government agency or a specified Government agency in financing, construction, maintenance and operation of the project, the cost of which exceeds such amount as may be prescribed, shall be submitted to the Board alongwith proposed concession agreement relating thereto for its consideration and different amounts of cost may be prescribed for different nature of projects. Recommendation by Board.
 (2) The Board shall consider the proposal and the proposed concession agreement submitted to it under sub-section (1) or sub-section (1) of section 10 and may either recommend with or without modifications or not recommend, or return the proposal and concession agreement for reconsideration of the State Government, the Government agency or, as the case may be, the specified Government agency.
6. The State Government, a Government agency or a specified Government agency may provide to a person assistance in the following manner, namely:— Assistance by State Government, Government agency or specified Government agency.
 (a) participation in the equity of the project not exceeding forty-nine per cent. of the total equity;
 (b) subsidy not exceeding fifteen per cent. of the cost of the project;
 (c) senior or subordinate loans;
 (d) guarantee by the State Government, a Government agency or a specified Government agency in respect of liability of a Government agency arising out of a concession agreement;
 (e) opening and operation of escrow account;
 (f) conferment of a right to develop any land;
 (g) incentives by the State Government in the form of exemption from payment of, or deferred payment of, any tax or fees levied by the State Government under any law; or
 (h) in any other manner as deemed fit.
7. No concession agreement for undertaking a project shall be entered into with any person unless the procedure specified in sections 8 and 9 or, as the case may be, sections 8 and 10 has been followed. Procedure for concession agreement.

Selection of person.

8. (1) A concession agreement for undertaking a project may be entered into with a person who is selected through a competitive public bidding as provided in section 9 or by direct negotiation as provided in section 10.

(2) The matters relating to competitive bidding and direct negotiation shall be such as may be prescribed.

Selection of person by competitive public bidding.

9. (1) On the acceptance of the recommendation of the Board made under sub-section (2) of section 5, the State Government, the Government agency or, as case may be, the specified Government agency shall select a developer for the project through the competitive public bidding in the manner provided hereunder.

(a) A public notice inviting persons to participate in competitive public bidding for undertaking the project—

(i) shall be published once in a week for two consecutive weeks in atleast three newspapers, two in general circulation and one in circulation in the area in which the project is to be undertaken, and

(ii) may be published by any other means of mass communication.

(b) (i) Any person who intends to participate in the competitive public bidding to undertake the project in pursuance of a public notice published under clause (a) shall provide information with regard to his legal, technical, managerial and financial capacity to undertake the said project in such form alongwith such particulars as may be specified by the State Government, the Government agency or, as the case may be, the specified Government agency.

(ii) The State Government, the Government agency or, as the case may be, the specified Government agency shall examine the information and other particulars submitted by the person under sub-clause (i) and decide as to whether such person fulfills the criteria for pre-qualification as laid down by the State Government, the Government agency or, as the case may be, the specified Government agency.

(iii) A person who fulfills the criteria as laid down under sub-clause (ii) shall be the pre-qualified person.

(c) (i) Where after a person who is a consortium is pre-qualified under clause (b) but before such person enters into a concession agreement with the State Government, the Government agency or, as the case may be, the specified Government agency, any constituent of the consortium disassociates from such consortium, then the State Government, the Government agency or, as the case may be, the specified Government agency shall call upon the consortium to include, within thirty days, such constituent in the consortium as specified by it so that, in the opinion of the State Government, the Government agency or, as the case may be, the specified Government agency, the consortium fulfills the criteria referred to in sub-clause (ii) of clause (b).

(ii) Where the consortium fails to comply with the requirement specified in sub-clause (i), the consortium shall cease to be the pre-qualified person.

(d) All pre-qualified persons shall be permitted to submit their proposals to undertake the project in such form (containing technical and financial aspects) as may be specified by the State Government, the Government agency or, as the case may be, the specified Government agency.

(2) On receipt of the proposals from the pre-qualified persons, the State Government, the Government agency or, as the case may be, the specified Government agency shall evaluate the proposals from technical aspect.

(3) If the proposals are in order from the technical aspect, the State Government, the Government agency or, as the case may be, the specified Government agency shall evaluate the proposals from the financial aspect, having regard to different factors specified below in respect of different nature of the agreements specified in Schedule II:—

(a) In relation to the build own operate and transfer agreement and the build operate and transfer agreement, any of the following factors shall be taken into consideration for the purpose of evaluation of the proposal, namely:—

- (i) lowest bid in terms of the present value of user charges, where period of concession is fixed;
- (ii) the highest revenue share to the State Government, the Government agency or the specified Government agency;
- (iii) a bid in terms of the shortest concession period, where the user charges is fixed;
- (iv) the lowest present value of the subsidy, where the period of concession is fixed.

(b) In relation to the build and transfer agreement and the build lease and transfer agreement, the lowest net present value of the amortization payment from the State Government, the Government agency or the specified Government agency shall be taken into consideration.

(c) In relation to the lease management agreement, highest present value of the lease payment to the State Government, the Government agency or the specified Government agency shall be taken into consideration.

(d) In relation to the management and service agreement, the lowest present value of the management fees to be paid by the State Government, the Government agency or the specified Government agency shall be taken into consideration.

(e) In relation to any other nature of agreement, the State Government, the Government agency or the specified Government agency may consider such factors as may be recommended by the Board.

(4) Where—

(a) the proposals are evaluated under sub-section (3) from the financial aspect having regard to a relevant factor specified in that sub-section and referred to in the proposals, and

(b) one of the proposals so evaluated satisfies the financial aspect having regard to the relevant factor,

the State Government, the Government agency or, as the case may be, the specified Government agency, may enter into a concession agreement with the person who has submitted the proposal referred to in clause (d) of sub-section (1).

(5) Where no proposal stands the scrutiny from the technical or financial aspect, the competitive bidding shall stand cancelled.

(6) Nothing in sub-section (5) shall prohibit the State Government, the Government agency or, as the case may be, the specified Government agency from inviting persons to participate in competitive public bidding in respect of the proposal which stands cancelled under that sub-section after, if necessary, revising the same.

10. (1) Where—

(i) a proposal for participation by a person for undertaking a project and a proposed concession agreement have not been prepared by the State Government, a Government agency or a specified Government agency for being submitted to the Board under sub-section (1) of section 5, and

(ii) a proposal for undertaking a project and a proposed concession agreement prepared by a person are submitted to the State Government, a Government agency or a specified Government agency;

the State Government, the Government agency or, as the case may be, the specified Government agency may—

(a) consider the proposal and the proposed concession agreement from all aspects (including technical and financial) and if necessary, modify the same in consultation

Selection by
direct
negotiation.

with the person who has submitted the proposal and the proposed concession agreement; and

(b) submit the proposal and the proposed concession agreement to the Board, if—

(i) the cost of the project exceeds the limit prescribed under sub-section (1) of section 5, and

(ii) the undertaking of the project does not require financial assistance in the form of subsidy from the State Government, the Government agency or the specified Government Agency.

(2) On acceptance of the recommendation of the Board made under sub-section (2) of section 5, the State Government, the Government agency or, as the case may be, the specified Government agency shall adopt the proposal as the basis for selecting a person with whom concession agreement for undertaking the project may be entered into, and for selecting such person, the State Government, the Government agency or, as the case may be, the specified Government agency shall follow the procedure of competitive public bidding specified in section 9.

(3) Where a person is selected by following the procedure of the competitive public bidding (hereinafter referred to as "the selected person"), the proposal of the selected person shall be compared with the proposal which is earlier submitted by a person to the State Government, the Government agency or, as the case may be, the specified Government agency under sub-section (1) (hereinafter referred to as "the earlier proposer").

(4) Where the proposal of the earlier proposer is not preferable to the proposal of the selected person, the earlier proposer shall be given an opportunity to make his proposal competitive with that of the selected person within a period of thirty days from the date on which he has been given the opportunity and where the earlier proposer fails to do so within the said period, the State Government, the Government agency or, as the case may be, the specified Government agency may enter into a contract with the selected person.

(5) (a) Where a concession agreement has not been entered into with the earlier proposer, the cost of preparation of the proposal and the concession agreement incurred by him shall be reimbursed by the State Government, the Government agency or, as the case may be, the specified Government agency and on such reimbursement, the proposal and the concession agreement submitted by the earlier proposer shall be the property of the State Government, the Government agency or, as the case may be, the specified Government agency.

(b) The cost of preparation of the proposal and the concession agreement shall be determined in such manner as may be prescribed.

Amount to be charged for providing goods and services.

11. (1) Where, in pursuance of a concession agreement with the State Government, the Government agency or, as the case may be, the specified Government agency,—

(a) (i) the developer has constructed a project for providing goods or services; and
(ii) the project vests in the developer for a period specified in the concession agreement; and

(iii) on expiry of such period, the project is to vest in the State Government, the Government agency or, the specified Government agency,

the developer may charge such amount as specified in the agreement for providing goods or services by the project so long as the project continues to vest in him, or

(b) an existing project is vested to a person to renovate, operate and maintain, the developer may charge such amount as specified in the agreement for providing goods or services by the project so long as the project continues to vest in him.

(2) A concession agreement may provide that a developer may, having regard to the rate of inflation, variation in the rate of the foreign exchange and such other factors, as may be prescribed, revise the amount of charges referred to in sub-section (1) in such manner, as may be prescribed.

12. Where a provision is made in a concession agreement requiring the developer to maintain the project constructed by him for a period specified in such agreement, —

Financial security for maintenance of project.

(a) there shall be opened an escrow account by the developer, the money out of which shall be expended for the maintenance of the project in accordance with the provisions made in the concession agreement or in any other agreement with the State Government, the Government agency or, as the case may be, the specified Government agency; or

(b) the developer shall execute a bond in the favour of the State Government, the Government agency or, as the case may be, the specified Government agency binding himself to make payment of such amount of money as specified in the bond to the State Government, the Government agency or, as the case may be, the specified Government agency, in case he fails to maintain the project in accordance with the provisions made in the concession agreement or any other agreement with the State Government, the Government agency or, as the case may be, the specified Government agency.

13. A developer shall provide at his expense, training to the employees of the State Government, the Government agency or, as the case may be, the specified Government agency in respect of maintenance or operation of the project in accordance with the provisions made in the concession agreement or in any other agreement with the State Government, the Government agency or, as the case may be, the specified Government agency.

Training to employees.

14. Where the project is transferred to the State Government, the Government agency or the specified Government agency according to the provisions of the concession agreement, all the rights of the developer in respect of the project shall stand transferred to the State Government, the Government agency or, as the case may be, the specified Government agency.

Transfer of certain rights.

15. (1) Where a concession agreement is terminated by the State Government, the Government agency or, as the case may be, the specified Government agency with the consent of the developer or in absence of any default of the developer, the developer shall be entitled to such amount of compensation for such termination as specified in the concession agreement.

Termination of concession agreement.

(2) A concession agreement may provide that if a default specified therein is committed by the developer, the State Government, the Government agency or, as the case may be, the specified Government agency shall, after giving to the developer an opportunity of being heard in such manner as may be prescribed, be entitled to terminate the concession agreement and—

(a) take over the project without repaying the amount invested by the developer in the equity and shall assume the liability of the developer towards loans taken by him in respect of the project; or

(b) enter into a concession agreement with another person whose name is recommended by the lenders of the developer and approved by the State Government, the Government agency or, as the case may be, the specified Government agency, on the same terms and conditions as are specified in the concession agreement so terminated.

16. (1) The State Government may, by notification in the *Official Gazette*, add to Schedule I any other project which falls within the executive power of the State and thereupon the project so added shall be deemed to be a project specified in Schedule I for the purposes of this Act.

Power to add to Schedule I.

(2) Every notification issued under sub-section (1) shall be laid before the State Legislature as soon as may be after it is issued.

CHAPTER III

ESTABLISHMENT AND CONSTITUTION OF BOARD.

- Establishment of Board.** 17. As soon as may be after the commencement of this Act, the State Government may, by notification in the *Official Gazette*, establish a Board to be called the Gujarat Infrastructure Development Board with effect from such date as may be specified in the notification.
- Head quarters of Board.** 18. The head quarters of the Board shall be at Gandhinagar or at such other place as the State Government may, by notification in the *Official Gazette*, specify.
- Constitution of Board.** 19. The Board shall consist of Chairman, Vice-Chairman, Member-secretary appointed by the State Government and such number of other members not exceeding fifteen, who shall be appointed by the State Government.
- Term of office of members.** 20. Every member shall hold office during the pleasure of the State Government.
- Filling up casual vacancies.** 21. If any vacancy arises in the Board or any committee thereof by reason of death, resignation or otherwise, the same shall be filled up by the State Government as soon as possible.
- Meetings of Board.** 22. The Board shall meet at such time and place and shall observe such rules of procedure in regard to transaction of its business at its meeting (including the quorum at such meeting) as may be provided by regulations.
- Temporary association of persons with Board.** 23. The Board may associate with itself any person whose assistance or advice is required in performing any of its functions under this Act.
- Providing information to Board.** 24. The Board may obtain the information with regard to the progress of the project which was submitted to it under sub-section (1) of section 5 or which was undertaken as per the provisions of section 10 from the State Government, a Government agency or a specified Government agency.
- Constitution of committees.** 25. The Board may constitute an Executive Committee and such other committees consisting of such number of members, for performing such of its functions, as may be provided by regulations.
- Officers and servants of Board.** 26. (1) The Board may appoint such officers and servants as it may consider necessary for the efficient discharge of its functions.
(2) The remuneration, allowances and conditions of service of the officers and servants of the Board shall be such as may be provided by the regulations.
- Acts and proceedings of Board presumed to be valid.** 27. No act or proceeding of the Board or of any of its committees shall be invalid merely by reason of—
(a) any vacancy therein or any defect in the constitution thereof, or
(b) any irregularity in its procedure not affecting the merit of the case.

CHAPTER IV

FUNCTIONS OF BOARD.

28. The functions of the Board shall be as follows, namely :—

- (a) to promote participation of a person in financing, construction, maintenance and operation of any project irrespective of its cost;
- (b) to advise the State Government, a Government agency or a specified Government agency on matters of policy in respect of participation referred to in clause (a);
- (c) to lay down priorities of projects to be undertaken by the State Government, a Government agency or a specified Government agency ;
- (d) to consider the proposal for undertaking a project and the proposed concession agreement submitted to it and to recommend with or without modifications or not recommend or return the proposal and proposed concession agreement for reconsideration of the State Government, the Government agency or, as the case may be, the specified Government agency ;
- (e) to elicit information relating to National and International Financial Institutions and to ensure co-operation of such Institutions;
- (f) to co-ordinate and monitor the projects undertaken in the State;
- (g) to assist in developing concepts of projects by undertaking pre-feasibility and feasibility studies of the project;
- (h) to undertake such project as may be entrusted to it by the State Government;
- (i) to perform such other functions as may be entrusted to it by the State Government.

Functions of Board.

CHAPTER V

FINANCE, ACCOUNTS, AUDIT AND ANNUAL REPORT.

29. (1) The Board shall have its own fund.

Fund of Board.

(2) All sums which may, from time to time, be paid to the Board by the State Government or by any body and the amount charged by the Board under section 32 shall be carried to the fund of the Board and all payments shall be made therefrom.

(3) The Board may spend such sums as it thinks fit for the performance of its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of the Board.

30. (1) The accounts of the Board shall be prepared and maintained in such form and in such manner as may be provided by regulations.

Accounts and audit.

(2) The Board shall cause to be prepared for each financial year an annual statement of accounts in such form as may be provided by regulations.

(3) The accounts of the Board shall be audited by an auditor duly qualified to act as an auditor of the companies under section 226 of the Companies Act, 1956.

I of 1956.

(4) The auditor shall send a copy of the report together with an audited copy of accounts to the Board which shall as soon as may be after the receipt of the audit report forward the same to the State Government.

(5) The State Government shall cause the audit report together with audited copy of accounts to be laid before the State Legislature as soon as may be after the receipt of the same under sub-section (4).

31. (1) The Board shall during each financial year prepare in such form and at such time as may be provided by regulations, an annual report giving a true and full account of its activities during the previous financial year and an account of the activities likely to be undertaken by it in current financial year and copies of such report shall be forwarded to the State Government.

Annual report.

(2) The State Government shall cause every such report to be laid before the State Legislature as soon as may be after the receipt of the report under sub-section (1).

CHAPTER VI

MISCELLANEOUS.

- Amount to be charged by Board.** 32. The Board may charge such amount as may be determined by it for considering the proposal and the proposed concession agreement under sub-section (2) of section 5.
- Members, officers and servants to be public servants.** 33. All members and officers and servants of the Board shall, while acting or purporting to act in pursuance of the provisions of this Act or any rules or regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.
- Protection of action taken in good faith.** 34. No suit, prosecution or other legal proceeding shall lie against the Board or any member and officer or servant of the Board for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rules and regulation made thereunder.
- Arbitration.** 35. A concession agreement shall contain an arbitration clause providing that—
- (a) all parties to the agreement shall submit to arbitration any dispute which may arise between them out of the provisions of the agreement,
 - (b) the place of arbitration shall be at Ahmedabad or any other place in India agreed to by the parties, and
 - (c) the dispute referred to in clause (a) shall be decided in accordance with the law for the time being in force in India.
- Gujarat Public Works Contracts Disputes Arbitration Tribunal Act, 1992 not to apply.** 36. Nothing contained in the Gujarat Public Works Contracts Disputes Arbitration Tribunal Act, 1992 shall apply to any arbitration arising out of the provisions of the concession agreement entered into by the State Government, a Government agency or a specified Government agency with a developer. Guj. 4 of 1992.
- Power to make rules.** 37. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—
- (a) the scheme for concession agreement under clause (b) of sub-section (1) of section 4;
 - (b) the amount of cost of a project exceeding which a proposal shall be submitted to the Board under sub-section (1) of section 5; and different amounts of costs for different nature of projects;
 - (c) the matters relating to competitive public bidding and direct negotiation under sub-section (2) of section 8;
 - (d) the manner in which the cost of preparation of the proposal and the concession agreement shall be determined under clause (b) of sub-section (5) of section 10;
 - (e) the other factors having regard to which charges may be revised and the manner in which they may be revised under sub-section (2) of section 11;
 - (f) the manner in which an opportunity of being heard shall be given to the developer under sub-section (2) of section 13;
 - (g) any other matter which is to be or may be prescribed.
- (3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to

rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

38. (1) The Board may make regulations not inconsistent with provisions of this Act and the rules made thereunder, for enabling it to discharge its functions under this Act.

Power to
make
regulations.

(2) In particular and without prejudice to the foregoing power, such regulations may provide for all or any of the following matters, namely :-

- (a) the time and the place at which the Board shall meet and rules of procedure the Board shall observe in regard to transaction of its business at its meeting under section 22;
- (b) the other committees which the Board may constitute, the number of members which the executive committee and other committees may consist of and the functions of the Board which they may perform under section 25;
- (c) the remuneration, allowances and conditions of service of officers and servants of the Board under sub-section (2) of section 26;
- (d) the form and manner in which the accounts of the Board shall be prepared and maintained under sub-section (1) of section 30;
- (e) the form in which an annual statement of accounts of the Board shall be prepared under sub-section (2) of section 30;
- (f) the form in which and the time at which an annual report of the Board shall be prepared under sub-section (1) of section 31;
- (g) any other matter which is, or may be necessary to be prescribed for the efficient conduct of the affairs of the Board.

39. (1) Nothing in this Act shall affect the validity of-

Savings.

(a) a concession agreement entered into by the State Government, a Government agency or a specified Government agency with any person before the date of the commencement of this Act (hereinafter referred to as "the said date"),

(b) (i) a letter of intent or any other writing issued to a person before the said date entrusting to him a project for execution if a concession agreement is entered into with respect to the project in pursuance of the said letter of intent or the writing, by the State Government, a Government agency or a specified Government agency with such person within a period of one year from the said date or such further period as may be extended by the State Government,

(ii) a concession agreement entered into under sub-clause (i) notwithstanding that the procedure specified in sections 8 and 10 or, as the case may be, sections 9 and 10 is not followed before entering into such concession agreement.

Guj. Ord.
1 of 1999.

40. (1) The Gujarat Infrastructure Development Ordinance, 1999 is hereby repealed.

Repeal and
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

SCHEDULE I
(See clause (j) of section 2)
PROJECTS

1. Power Generation, Transmission and Distribution Systems.
2. Roads, Bridges and By-passes.
3. Ports (other than major ports) and Harbours thereof.
4. Urban Transportation.
5. Dams.
6. Water Storage, Water Supply and Sewerage System.
7. Irrigation.
8. Land Reclamation Projects.
9. Industrial Estates including Industrial Parks.
10. Tourism Projects.
11. Solid Waste Management.
12. Information Technology related Projects.
13. Education.
14. Health Facilities.
15. Public Markets.
16. Post-harvest Facilities.
17. Inland Waterways other than National Waterways.
18. Fisheries not beyond territorial waters.
19. Development of Minor Minerals.
20. Gas and Gas Works.

SCHEDULE II

(See sub-section (1) of section 4)

NATURE OF CONCESSION AGREEMENT

1. *Build Own Operate and Transfer Agreement* : An agreement whereby the developer undertakes to finance, construct, maintain and operate a project and whereby such project is to vest in the developer for a specified period. During the period of operation of the project by the developer, he may be permitted to charge user charges as specified in an agreement. The developer is required to transfer the project to the State Government, a Government agency or, as the case may be, a specified Government agency after the expiry of the period of operation.
2. *Build Own Operate and Maintain Agreement* : An agreement whereby a developer undertakes to finance, construct, operate and maintain a project and whereby such project is to vest in the developer for specified period. During the period of operation of the project, he may be permitted to charge user charges as specified in the agreement.
3. *Build and Transfer Agreement* : An agreement whereby a developer undertakes to finance and construct a project. After the completion of the project, the developer is required to transfer the project to the State Government, a Government agency or, as the case may be, a specified Government agency. The developer shall be paid such amount as is fixed in amortization schedule specified in the agreement.
4. *Build Lease and Transfer Agreement* : An agreement whereby a developer undertakes to finance and construct the project. On completion of the project, the developer hands it over to the State Government, a Government agency or, as the case may be, a specified Government agency for operation under a lease agreement for period specified in the agreement after the expiry of which the project stands transferred to the State Government, the Government agency or, as the case may be, the specified Government agency.
5. *Build Transfer and Operate Agreement* : An agreement whereby the developer undertakes to finance and construct the project. On completion of the project, the developer transfers the project to the State Government, a Government agency or, as the case may be, a specified Government agency which permits the developer to operate the project on its behalf for a period specified in the agreement.
6. *Lease Management Agreement* : An agreement whereby the State Government, a Government agency or a specified Government agency leases a project owned by the State Government, the Government agency or, as the case may be, a specified Government agency to the person who is permitted to operate and maintain the project for the period specified in the agreement and to charge user charges therefor.
7. *Management Agreement* : An agreement whereby the State Government, a Government agency or a specified Government agency entrusts the operation and management of a project to a person for the period specified in the agreement on payment of specified consideration. In such agreement the State Government, the Government agency or, as the case may be, a specified Government agency may charge the user charges and collect the same either itself or entrust the collection for consideration to any person who shall after collecting the user charges pay the same to the State Government, a Government agency or as the case may be, a specified Government agency.
8. *Rehabilitate Operate and Transfer Agreement* : An agreement whereby an existing project is vested in a person to renovate, operate and maintain for the period specified in the agreement after the expiry of which the project is required to be transferred

to the State Government, a Government agency or, as the case may be, the specified Government agency. During the period of operation of the project by the developer, he may be permitted to charge user charges as specified in the agreement.

9. *Rehabilitate Own Operate and Maintain Agreement* : An agreement whereby an existing project is vested in a person to renovate, operate and maintain. The developer shall be permitted to charge user charges as specified in the agreement.
10. *Service Contract Agreement* : An agreement whereby a person undertakes to provide services to the State Government, a Government agency or, a specified Government agency for a specified period. The State Government, a Government agency or, as the case may be, a specified Government agency shall pay him an amount according to the agreed schedule.
11. *Supply Operate and Transfer Agreement* : An agreement whereby a person supplies to the State Government, a Government agency or a specified Government agency the equipments and machinery for a project and undertakes to operate the project for a period and consideration specified in the agreement. During the operation of the project, he shall undertake to train employees of the State Government, the Government agency or, as the case may be, the specified Government agency to operate the project.
12. *Joint Venture Agreement* : An agreement whereby the State Government, a Government agency or a specified Government agency enters into an agreement with a developer to jointly finance, construct, operate and maintain a project for a period specified in the agreement after the expiry of which the project is required to be transferred to the State Government, the Government agency or, as the case may be, the specified Government agency.



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EXTRAORDINARY

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Separate paging is given to this Part in order that it
may be filed as a Separate Compilation.

PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 5th October, 1999 is hereby published for general information.

KUM. H. K. JHAVERI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 12 OF 1999.

(First published after having received the assent of the Governor in the Gujarat Government Gazette on the 5th October, 1999)

AN ACT

further to amend the Gujarat Tax on Sale of Electricity Act, 1985.

It is hereby enacted in the Fiftieth Year of the Republic of India, as follows:—

1. (1) This Act may be called the Gujarat Tax on Sale of Electricity (Amendment) Act, 1999.
- (2) It shall be deemed to have come into force on the 12th May, 1999.

Guj. 5 of 1985.

LIV of 1948.

LIV of 1948.

2. In the Gujarat Tax on Sale of Electricity Act, 1985 (hereinafter referred to as "the principal Act"), in section 2,—

(1) in clause (c), for the words, figures and brackets "supplying energy and the State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948", the words, figures, letter and brackets "supplying energy, the Generating Company as defined in clause (4A) of section 2 of the Electricity (Supply) Act, 1948 and the State Electricity Board constituted under section 5 of that Act of 1948" shall be substituted;

Short title
and commence-
ment.

Amendment
of section 2 of
Guj. 5 of 1985.

(2) to clause (h), the following proviso shall be added, namely :—

"Provided that where a licensee, who has installed the generating set for his own use, supplies surplus electrical energy to any other undertaking (hereinafter referred to as "the receiving undertaking"), the amount payable by any other consumer for supply of such quantum of power to the licensee who is engaged in the business of supplying energy within the area where the receiving undertaking is located, shall be considered to be the amount of sale price received and receivable by the licensee who has installed the generating set irrespective of actual amount paid and payable to him."

Amendment
of section 10 of
Guj. 5 of 1985.

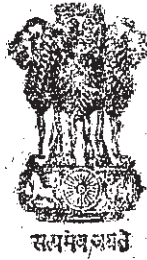
3. In the principal Act, in section 10, for the brackets, figures and words "(not exceeding 12% per annum)", the words "not exceeding twenty-four per cent. per annum," shall be substituted.

Repeal
and
savings.

4. (1) The Gujarat Tax on Sale of Electricity (Amendment) Ordinance, 1999 is hereby repealed.

Guj. Ord.
2 of 1999.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.



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PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

URBAN DEVELOPMENT AND URBAN HOUSING DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 3rd December, 1999.

GUJARAT ORDINANCE NO. 3 OF 1999.

AN ORDINANCE

further to amend the Gujarat Municipalities Act, 1963.

WHEREAS the Legislative Assembly of the State of Gujarat is not
in session;

AND WHEREAS the Governor of Gujarat is satisfied that circum-
stances exist which render it necessary for him to take immediate action to
amend the Gujarat Municipalities Act, 1963;

NOW, THEREFORE, in exercise of the powers conferred on him
by clause (1) of article 213 of the Constitution of India, the Governor of
Gujarat is hereby pleased to make and promulgate the following Ordinance,
namely :—

1. *Short title and commencement.* — (1) This Ordinance may be
called the Gujarat Municipalities (Amendment) Ordinance, 1999.

(2) It shall come into force at once.

Guj. 34
of 1964.

2. *Guj. 34 of 1964 to be temporarily amended.*— During the period of operation of this Ordinance, the Gujarat Municipalities Act, 1963 (hereinafter referred to as "the principal Act") shall have effect subject to the amendment specified in section 3.

Guj. 34
of 1964.

3. *Amendment of section 33 of Guj. 34 of 1964.*— In the principal Act, in section 33, for sub-section (1), the following shall be substituted, namely :—

"(1) (a) The term of office of the President of a municipality constituted upon the general election held after the commencement of the Gujarat Municipalities (Amendment) Ordinance, 1999 shall be two and a half years.

Guj. Ord. 3
of 1999.

(b) The term of office of the President of a municipality existing on the commencement of the said Ordinance shall be one year.

(c) Subject to the other provisions of this section, the President shall be eligible for re-election."

STATEMENT

Under the existing provision of sub-section (1) of section 33 of the Gujarat Municipalities Act, 1963, the term of office of the President is fixed for a period of one year. On gaining experience, it is found that the period of one year is very short for the President to undertake and implement any important project or take any effective measure for discharging his duties efficiently. It is, therefore, considered necessary to increase the term of office of the President from one year to two and a half years of those municipalities which are constituted upon the general election held after the commencement of this Ordinance. Accordingly sub-section (1) of section 33 is suitably amended.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the said Act to achieve the aforesaid object.

Camp at New Delhi,
Dated the 3rd December, 1999.

SUNDAR SINGH BHANDARI,
Governor of Gujarat.

By order and in the name of the Governor of Gujarat,

MANJULA SUBRAMANIAM,
Principal Secretary to Government.



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PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

FINANCE DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 10th December, 1999.

GUJARAT ORDINANCE NO. 4 OF 1999.

AN ORDINANCE

further to amend the Gujarat State Guarantees Act, 1963.

WHEREAS the Legislative Assembly of the State of Gujarat is not
in session;

AND WHEREAS the Governor of Gujarat is satisfied that
circumstances exist which render it necessary for him to take immediate
action to amend the Gujarat State Guarantees Act, 1963;

Guj. XXII of
1963.

NOW, THEREFORE, in exercise of the powers conferred on him by
clause (1) of article 213 of the Constitution of India, the Governor of Gujarat
is hereby pleased to make and promulgate the following Ordinance, namely:—

1. Short title and commencement. - (1) This Ordinance may be called
the Gujarat State Guarantees (Amendment) Ordinance, 1999.

(2) It shall come into force at once.

2. *Guj. XXII of 1963 to be temporarily amended*.— During the period of operation of this Ordinance, the Gujarat State Guarantees Act, 1963 (hereinafter referred to as "the principal Act") shall have effect subject to the amendment specified in section 3.

Guj. XXII
of 1963.

3. *Amendment of section 2 of Guj. XXII of 1963*.— In the principal Act, in section 2, in sub-section (1), for the letters and figures "Rs. 110,00,00,00,000", the letters and figures "Rs. 140,00,00,00,000" shall be substituted.

STATEMENT

Sub-section (1) of section 2 of the Gujarat State Guarantees Act, 1963 fixes Rs. 110,00,00,00,000/- to be the limit upto which the State may give guarantees. With a view to meeting the increasing demand in the wake of development in the field of power sector, agriculture, industry and infrastructure facilities therefor, it is considered necessary to raise the limit upto Rs. 140,00,00,00,000/-.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the said Act to achieve the aforesaid object.

Gandhinagar,
Dated the 9th December, 1999.

SUNDAR SINGH BHANDARI,
Governor of Gujarat.

By order and in the name of the Governor of Gujarat,

HASMU KH ADHIA,
Secretary to Government.



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PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

FINANCE DEPARTMENT

Sachivalaya, Gandhinagar, dated the 31st December, 1999.

GUJARAT ORDINANCE NO. 5 OF 1999.

AN ORDINANCE

further to amend the Gujarat Sales Tax Act, 1969.

WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Sales Tax Act, 1969;

Guj. 1 of
1970.

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely:—

1. *Short title and commencement.*— (1) This Ordinance may be called the Gujarat Sales Tax (Amendment) Ordinance, 1999.

(2) It shall come into force on and from the 1st January, 2000.

2. *Guj.1 of 1970 to be temporarily amended.* -- During the period of operation of this Ordinance, the Gujarat Sales Tax Act, 1969 (hereinafter referred to as the "principal Act") shall have effect subject to the amendments specified in sections 3 and 4.

Guj.1 of
1970.

3. *Amendment of Schedule I to Guj.1 of 1970.* - In the principal Act, in Schedule I, the entry at serial No. 26 shall be deleted.

4. *Amendment of Schedule II, Part A to Guj.1 of 1970.* - In the principal Act, in Schedule II, in Part A, -

(1) the entry at serial No. 12 shall be renumbered as sub-entry (i) of that entry and after sub-entry (i) as so renumbered, the following sub-entry shall be inserted, namely:-

1	2	3	4
"	(ii) Diamond whether polished or not, synthetic precious stones and other precious stones, synthetic diamond powder.	One paise in the rupee	One paise in the rupee."

(2) in the entry at serial No. 13A, in columns 3 and 4, for the words "Four paise", the words "Eight paise" shall be substituted;

(3) in the entry at serial No. 15, in columns 3 and 4, for the words "1/2 paise", the words "One paise" shall be substituted;

(4) in the entry at serial No. 19, in columns 3 and 4, for the words "Six paise", the words "Eight paise" shall be substituted;

(5) in the entry at serial No. 20, in columns 3 and 4, for the words "Six paise", the words "Twelve paise" shall be substituted;

(6) in the entry at serial No. 23, in sub-entries (i) and (ii), in columns 3 and 4, for the words "Two paise", the words "Four paise" shall be substituted;

(7) in the entry at serial No. 25, in columns 3 and 4, for the words "Six paise", the words "Eight paise" shall be substituted;

(8) in the entry at serial No. 31, in columns 3 and 4, for the words "Two paise", the words "Four paise" shall be substituted;

(9) in the entry at serial No. 32, in columns 3 and 4, for the words "Twelve paise", the words "Twenty paise" shall be substituted;

(10) in the entry at serial No. 42, in sub-entry (i), in columns 3 and 4, for the words "Eight paise", the words "Twenty paise" shall be substituted;

(11) in the entry at serial No. 43, in columns 3 and 4, for the words "Four paise", the words "Eight paise" shall be substituted;

(12) in the entry at serial No. 44, in sub-entry (B), in columns 3 and 4, for the words "Two paise", the words "Four paise" shall be substituted;

(13) in the entry at serial No. 48, in columns 3 and 4, for the words "Two paise", the words "Twelve paise" shall be substituted;

(14) in the entry at serial No. 51, in columns 3 and 4, for the words "Two paise", the words "Four paise" shall be substituted;

(15) the entry at serial No. 59 shall be renumbered as sub-entry (i) of that entry and after sub-entry (i) as so renumbered, the following sub-entry shall be inserted, namely:-

1	2	3	4
"	(ii) Sewing threads	Four paise in the rupee	Four paise in the rupee";

(16) in the entry at serial No. 60, in columns 3 and 4, for the words "Six paise", the words "Twelve paise" shall be substituted;

(17) in the entry at serial No. 66, in columns 3 and 4, for the words "Two paise", the words "Four paise" shall be substituted;

(18) for the entry at serial No. 77, the following entry shall be substituted, namely:-

1	2	3	4
"77	(i) Bricks	Eight paise in the rupee	Eight paise in the rupee ;
	(ii) Roofing tiles (other than <i>Dashi Nalia</i> and <i>Mangleri Nalia</i>)	Six paise in the rupee	Six paise in the rupee";

(19) in the entry at serial No. 94, in sub-entry (i), in columns 3 and 4, for the words "Six paise", the words "Eight paise" shall be substituted;

(20) in the entry at serial No. 97,—

(a) after sub-entry (C), the following sub-entry shall be inserted, namely:-

1	2	3	4
"(CC)(i)	Television reception instruments such as all types of television sets television projection equipments, close circuit Television and T.V. monitor	Twelve paise in the rupee.	Twelve paise in the rupee.";
	(ii) Video Cassette Recorders, Video Cassette players, Video cameras and combination of any of these instruments.		
	(iii) Electronics games, Electronics toys and instruments for playing electronics games and toys.		

(b) in sub-entry (D),—

(i) the items at serial No. (2), (7) and (9) shall be deleted;

(ii) in columns 3 and 4, for the words "Four paise", the words "Eight paise" shall be substituted;

(21) after entry at serial No. 97, the following entry shall be inserted, namely:-

1	2	3	4
"97A	Earth-moving equipment	Eight paise in the rupee	Eight paise in the rupee";

(22) in the entry at serial No. 100 A, for sub-entry (iv), the following sub-entries shall be substituted, namely:-

1	2	3	4
"	(iv) Meat, Fish and all Sea food.	Four paise in the rupee	Four paise in the rupee
	(v) Processed vegetables	Four paise in the rupee	Four paise in the rupee";

(23) in the entry at serial No. 102, in columns 3 and 4, for the words "Six paise", the words "Eight paise" shall be substituted;

(24) in the entry at serial No. 104,-

(a) in sub-entry (i),

(i) in column 2, after the word "except", the words "Steel furniture," shall be inserted;

(ii) in columns 3 and 4, for the words "Six paise", the words "Eight paise" shall be substituted;

(b) in sub-entry (ii), in columns 3 and 4, for the words "Eight paise", the words "Twelve paise" shall be substituted;

(c) after sub-entry (ii), the following sub-entry shall be inserted, namely:-

1	2	3	4
"	(iii) Steel furniture	Twelve paise in the rupee	Twelve paise in the rupee";

(25) in the entry at serial No. 112, in columns 3 and 4, for the words "Two paise", the words "Four paise" shall be substituted;

(26) in the entry at serial No. 124, in columns 3 and 4, for the words "Six paise", the words "Twelve paise" shall be substituted;

(27) in the entry at serial No. 128,-

(a) in sub-entries (1), (2), (4) and (5), in columns 3 and 4, for the words "Four paise", the words "Twelve paise" shall be substituted;

(b) in sub-entry (3), in columns 3 and 4, for the words, "Six paise", the words "Eight paise" shall be substituted;

(28) in the entry at serial No. 133, in sub-entries (i) to (vi), in columns 3 and 4, for the words "Four paise", the words "Eight paise" shall be substituted;

(29) in the entry at serial No. 139, in columns 3 and 4, for the words "Eight paise", the words "Twelve paise" shall be substituted;

(30) in the entry at serial No. 140,-

(a) in sub-entry (i), in columns 3 and 4, for the words "Six paise", the words "Eight paise" shall be substituted;

(b) in sub-entry (ii), in columns 3 and 4, for the words "Six paise", the words "Twelve paise" shall be substituted;

(31) the entry at serial No. 151 shall be renumbered as sub-entry (i) of that entry and after sub-entry (i) as so renumbered, the following sub-entry shall be inserted, namely:-

1	2	3	4
	"(ii) Sewing machines (operated by electrical power) and spares parts and accessory thereof	Eight paise in the rupee	Eight paise in the rupee";

(32) in the entry at serial No. 167, in columns 3 and 4, for the words "Six paise", the words "Eight paise" shall be substituted;

(33) in the entry at serial No. 178, in columns 3 and 4, for the words "Two paise", the words "Four paise" shall be substituted;

(34) in the entry at serial No. 182,-

(a) in sub-entries (i), (ii) and (iii), in columns 3 and 4, for the words "Two paise", the words "Four paise" shall be substituted;

(b) for sub-entry (iv), the following sub-entries shall be substituted, namely:-

1	2	3	4
	"(iv) Utensil made of other metals.	Four paise in the rupee.	Four paise in the rupee.
	(v) Articles made of stainless steel	Twelve paise in the rupee	Twelve paise in the rupee.";

(35) in the entry at serial No. 183, in columns 3 and 4, for the words "Four paise", the words "Eight paise" shall be substituted;

(36) for the entry at serial No. 184 C, the following entry shall be substituted, namely:-

1	2	3	4
	"184 C(A) (i) Variali (ani seeds), (ii) Methi (Fengru seeds) (iii) Ajma (Ajwa) (iv) Kalingda seeds (v) Asalia (B) Jira (Cumin seeds)	Two paise in the rupee. Four paise in the rupee	Two paise in the rupee. Four paise in the rupee.";

(37) in the entry at serial No. 186, in columns 3 and 4, for the words "Four paise", the words "Eight paise" shall be substituted.

STATEMENT

In the Chief Ministers' Conference held on the 16th November, 1999, a consensus had emerged to apply uniformity of the floor rates in respect of sales tax leviable under Sales Tax Laws of respective States with effect from 1st January, 2000. In order to implement the decision taken in the said Conference, it is necessary to change the rates of sales tax leviable under the Gujarat Sales Tax Act, 1969. Accordingly, amendments are made in Schedule I and Schedule II, Part A of the said Act.

As the Gujarat Legislative Assembly is not in session, this Ordinance is promulgated to amend the said Act to achieve the aforesaid object.

Gandhinagar,

Dated the 31st December, 1999.

SUNDAR SINGH BHANDARI,
Governor of Gujarat.

By order and in the name of the Governor of Gujarat,

HASMUKH ADHIA,
Secretary to Government.